

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Zoning Commission



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 11-07**

**Z.C. Case No. 11-07**

**American University**

**(2011 Campus Plan and Further Processing of an Approved Campus Plan –  
East Campus, Nebraska Hall Addition, and Mary Graydon Center Addition)**

**March 8, 2012**

This Order arises out of an application by American University (“University,” “AU,” or “Applicant”) for special exception approval pursuant to 11 DCMR §§ 3104.1 and 3035, and in accordance with § 210 of the Zoning Regulations, of an updated campus plan for a period of 10 years and for further processing approval, under the approved campus plan, of certain construction on the University’s campus in Northwest Washington, D.C.

**Procedural History**

The Applicant filed an application with the Zoning Commission for the District of Columbia (“Commission”) on March 18, 2011 for review and approval of the American University 2011 Campus Plan (“Campus Plan” or “2011 Plan”) and further processing applications for the development of the East Campus, an addition to Nebraska Hall, and an addition to the Mary Graydon Center. The 2011 Plan follows on the University’s 2001 Campus Plan, which was approved, subject to conditions, for a term ending August 15, 2011. *See* Z.C. Order No. 949, Z.C. Case No. 00-36CP/16638 (January 8, 2002).

Notice of the self-certified application was mailed to owners of all property within 200 feet in all directions from all boundaries of the property involved in the application; that is, the University’s Main and Tenley campuses. Notice was also published in the *D.C. Register* on April 1, 2011 (58 DCR 2828).

Pursuant to notice, the Commission held public hearings on June 9, June 23, July 14, September 22, October 6, October 13, November 3, and November 7, 2011 to consider the University’s application. Decision meetings were conducted January 23, February 16, and March 8, 2012.

In addition to the Applicant, Advisory Neighborhood Commissions (“ANCs”) 3D, 3E, and 3F were automatically parties to this case. The Commission granted party status in opposition to the application to the Spring Valley-Wesley Heights Citizens Association (“SVWHCA”); the Neighbors for a Livable Community (“NLC”); the Westover Place Homes Corporation (“WPHC”), representing a development of 149 townhouses on eight acres abutting the site of the

proposed East Campus development; the Tenley Campus Neighborhood Association (“TCNA”); the Tenley Neighbors Association (“TNA”); and Robert Herzstein, a resident living near the University’s athletic fields. The Commission denied requests for party status by Catherine Brant, Alfred Brenner, Gail Donovan, Johanna Farley, David Fehrman, Nancy Hanna, Maria Kress, Kathleen Mullen, Rosemary Niehuss, Elaine Patterson, Jill Stern, Benjamin Tessler, David Vaughan, and Carol Wells, finding that their interests would be adequately represented by the neighborhood associations.

**Applicant’s Case.** The University’s proposed campus plan for the period from 2011 to 2020 calls for the construction of new on-campus housing for undergraduate students as well as new academic, athletic, recreation, dining, and activity facilities, and the relocation of the Washington College of Law (“WCL”) to the Tenley Campus. The application also requests approval of three proposals for further processing of the new plan: (i) an addition to the Nebraska Hall student residence to add 150 new beds; (ii) an addition to the Mary Graydon Center to expand dining and activity space; and (iii) development of the East Campus, on the site of the current Nebraska Avenue parking lot, with six new buildings containing student housing and retail, academic, and administrative space as well as parking. The Applicant provided evidence and testimony in support of the application from David Taylor, chief of staff in the office of the University’s president; Jorge Abud, the University’s assistant vice president of facilities development and real estate; Beth Buffington, a principal with Little Diversified Architectural Consulting and an expert in architecture; Daniel Van Pelt and Robert Schiesel of Gorove/Slade Associates, experts in transportation planning; Michelle Espinosa, the University’s associate dean of students; and Kevin Miller, an expert in acoustics with Miller, Beam & Paganelli, consultants in acoustics, vibration, and audio/visual design.

**Persons in Support.** The Commission heard testimony and received letters from numerous persons in support of the application. Their statements generally cited the economic, cultural, educational, and aesthetic benefits provided by the University, as well as the benefits to surrounding communities that would result from approval of the 2011 Campus Plan. Persons in support commented favorably on the University’s proposal to increase the number of student beds on campus, its “reasonable plans for expansion,” the benefits of moving the Washington College of Law to the Tenleytown location closer to public transit, and its plans for development of the East Campus from a parking lot into a university use that would provide benefits to residents of the nearby neighborhoods.

**Office of Planning.** By report dated June 2, 2011, the Office of Planning (“OP”) recommended approval of the University’s proposed 2011 Campus Plan subject to conditions addressing noise, student enrollment, student housing, and the development and use of the East Campus. OP concluded that, with implementation of the recommended conditions, the 2011 Campus Plan could facilitate the fulfillment of the University’s academic mission without creating objectionable conditions for neighboring property. OP also reported that the Metropolitan Police

Department had no objections to the University's proposed 2011 Campus Plan. (Exhibit [“Ex.”] 238.)

By a supplemental report dated June 22, 2011, OP modified some of its proposed conditions after receiving additional information from the Applicant and discussing measures to mitigate noise impacts with the owners of some properties adjoining the campus. By a second supplemental report, dated November 28, 2011, OP clarified its recommendations with respect to student housing.

**DDOT**. The District Department of Transportation (“DDOT”) testified in support of the 2011 Campus Plan, describing its review of the pedestrian, transit, and vehicular impacts of the University’s proposal. By memorandum dated June 6, 2011, DDOT indicated its recommendation “conditionally supportive” of the Applicant’s proposal, subject to the provision of additional transportation details and analysis in further processing procedures, especially with respect to the Tenley Campus.

**ANC 3D**. By letter dated May 9, 2011, ANC 3D indicated that, at a special public meeting on April 25, 2011, the ANC approved a series of resolutions that opposed certain elements of the proposed campus plan, recommended “significant changes in the form of conditions to other elements” of the plan, and supported some elements of the University’s proposal. The ANC objected that the University had “not engaged in a meaningful dialogue with residents about many of the projects proposed in the plan.” (Ex. 45.) By letter dated June 2, 2011, ANC 3D submitted a resolution approved at a regular monthly meeting held June 1, 2011. The resolution indicated the ANC’s opposition to installation of a mid-block pedestrian signal on Nebraska Avenue as well as its positions on student and employee caps, and student housing. ANC 3D provided testimony from David Fields, an expert in transportation planning, who stated that the University had not addressed “several technical transportation issues” and suggested “additional TDM measures worth considering,” including a peak hour auto trip cap. (Ex. 471.)

**ANC 3E**. At a properly noticed meeting held May 12, 2011 with a quorum present, ANC 3E voted 4-0-1 to approve a resolution asking the Commission to delay the public hearing on the 2011 Campus Plan because the Applicant had not provided sufficient detail about its plans for the Tenley Campus. Alternatively, ANC 3E expressed its opposition to the proposed campus plan. (Ex. 119.) In subsequent filings and in testimony at the public hearing, ANC 3E made recommendations concerning especially the University’s enrollment caps, on-campus housing requirements, and the regulation of student behavior.

**ANC 3F**. By letter dated May 23, 2011, ANC 3F reported its adoption of a resolution, by a vote of 5-0-0 at a duly noticed public meeting held on May 16, 2011 with a quorum present. The resolution requested postponement of this proceeding pending receipt of specified information from the University about its plans for the Tenley Campus, and alternatively stated the opposition of ANC 3F to “the Campus Plan as currently drafted.” (Ex. 63.)

Parties in Opposition. The parties in opposition provided a joint presentation objecting to the Applicant's proposed campus plan, which included testimony provided by Deana Rhodeside, an expert in campus planning, and Jawahar (Joe) Mehra, an expert in transportation planning, as well as Susan Farrell, president of WPHC; Michael Mazzuchi and Glenn Westley, representing the SVAHCA; Robert Herzstein, both as president of NLC and on his own behalf; and Greg Ferenbach, president of the TCNA. The parties in opposition contended that the Applicant had failed to establish that its plan would not create objectionable conditions, and argued that modifications to the proposed plan were required with respect to caps on students – with subcaps for undergraduates and law students – and staff, and to developments proposed by the University, including reductions in the density and number of dormitories on the East Campus, reductions in the size of North Hall and the Beeghly addition, re-siting of South Hall, implementation of effective landscape screening from neighbors, adoption of conditions on development at the Tenley Campus to reduce its size, mass, and traffic, relocation of some new housing to the interior of the Main Campus, and a halt to the repurposing of neighborhood retail space.

In addition to their testimony, the parties in opposition made numerous submissions into the record in this proceeding. NLC and WPHC presented an “alternative framework” for the AU campus prepared by their expert in land-use planning, Deana Rhodeside. According to NLC/WPHC, the alternative illustrated “the potential to further concentrate both residential facilities and overall campus density on the interior of the AU main campus west of Nebraska Avenue, thereby addressing AU’s housing needs while ensuring that new development at the edges of the campus is not likely to become objectionable to neighboring properties and surrounding residential neighborhoods.” (Ex. 158.) The parties in opposition submitted a report by their traffic expert, Jawahar (Joe) Mehra, who contended that the Applicant’s transportation report did not accurately project traffic and increased delays that would result from approval of the proposed campus plan, because the University’s experts “systematically underestimated existing and future traffic conditions and the impacts of AU’s proposed plan and did not follow accepted industry practice in important respects.” (Ex. 465, 524.) SVAHCA submitted copies of two petitions, one “focused on objectionable aspects of the Campus Plan in Wesley Heights, which is adjacent to the proposed ‘East Campus’ housing,” and the other seeking retention of the University’s existing overall enrollment cap. SVAHCA also objected that the proposed campus plan omitted essential material regarding the University’s proposed use of the Tenley Campus. Robert Herzstein contended that activities on the campus have caused “severe adverse noise impacts” on neighboring houses, particularly arising from the University’s athletic fields due to the frequency of sports events and the use of amplified sound and air horns. Mr. Herzstein proposed a series of conditions related to the University’s use of its athletic fields. (Ex. 155, 513, 551.)

In addition to their joint presentation with other parties in opposition, NLC and WPHC contended that the University’s proposed 2011 Campus Plan would “create objectionable

conditions for the neighboring homes,” arguing that the Applicant had provided “an incomplete picture of its development plans in its 2011 Plan and related applications for further processing,” and that the “quality and character of nearby residential neighborhoods will be adversely affected and degraded by AU’s plans for enrollment growth, the construction of massive dormitories that adversely impact neighboring homes, and decreased parking.” According to NLC and WPHC, “[l]ikely adverse effects include increased noise and light from new student housing and other proposed structures, increased traffic and parking problems, additional pedestrian safety issues, aesthetically unacceptable and over-sized buildings, and a number of other objectionable conditions relating to student behavior and an absence of meaningful buffers.” (Ex. 157.)

Persons in Opposition. The Commission heard testimony and received letters from numerous persons in opposition to the application. The persons in opposition generally cited the University’s unwillingness to compromise on issues in discussion with neighborhood residents; allegations of “unrestricted growth” in established low-density neighborhoods, thereby altering the character of the surrounding neighborhoods; increased traffic congestion, especially around Ward Circle and Tenley Circle; allegations of noise impacts, particularly in connection with student residences, both on- and off-campus; complaints about parking on neighborhood streets by AU students and staff, and about the University’s off-campus parking program; objections to the planned relocation of the Washington College of Law to the Tenley Campus; concerns about off-campus misbehavior, especially involving students living in group houses off campus; the University’s expansion into commercial areas off campus and resulting displacement of neighborhood retail; plans to construct student housing in proximity to existing residences when viable options were available on the core campus; the height and bulk of proposed new construction; and increased pedestrian traffic along Nebraska Avenue.

### **FINDINGS OF FACT**

1. The proposed 2011 Campus Plan applies to both the University’s Main Campus (4400 Massachusetts Avenue, N.W.) and the Tenley Campus (4300 Nebraska Avenue, N.W. and 4344 Wisconsin Avenue, N.W.). The East Campus, considered part of the Main Campus, is located across Nebraska Avenue from the largest portion of the Main Campus (3501 Nebraska Avenue, N.W.). The Tenley Campus is located approximately one mile from the Main Campus. The campus as a whole comprises Square 1560, Lot 807; Square 1599, Lots 24 and 812; Square 1600, Lots 1, 801, 810, and 816; Square 1601, Lot 3; and Square 1728, Lot 1. The Applicant did not propose any changes to the boundaries adopted in the University’s 2001 Campus Plan.
2. The Main Campus, located at Ward Circle at the intersection of Massachusetts and Nebraska Avenues, N.W., has been the principal site of the University since 1893. The Main Campus covers approximately 76 acres and contains 43 buildings with a total of 1.8 million square feet of gross floor area. Areas surrounding the Main Campus are devoted primarily to residential uses ranging from one-family detached dwellings to large

apartment buildings as well as institutional uses along Nebraska Avenue, including the U.S. Department of Homeland Security, the NBC studio, and several foreign missions.

3. The Main Campus comprises three subareas located on both sides of Massachusetts and Nebraska Avenues: (a) a 59-acre parcel bounded by Massachusetts Avenue on the north, Nebraska Avenue on the east, Rockwood Parkway and residential development on the south, and University Avenue and residential development on the west; (b) the eight-acre East Campus, bounded by Nebraska Avenue on the west, New Mexico Avenue on the south, Ward Circle and Massachusetts Avenue to the north, and the Westover Place residential community to the east; and (c) an L-shaped parcel fronting on Massachusetts and Nebraska Avenues that is the location of the Katzen Arts Center and Nebraska Hall, a student residence, and abuts the Temple Baptist Church and the Fort Gaines neighborhood of one-family detached dwellings to the north.
4. The Tenley Campus is an eight-acre site bounded by Nebraska Avenue on the east, Warren Street on the south, 42<sup>nd</sup> Street on the west, and Yuma Street on the north; the intersection of Nebraska Avenue and Yuma Street abuts Tenley Circle and Wisconsin Avenue. The Tenley Campus was acquired by the University in 1985 and currently contains five primary buildings that provide undergraduate residential space (497 beds), classrooms, and office space. The Tenleytown Metrorail station is located approximately one block north on Wisconsin Avenue. Uses in the areas surrounding the Tenley Campus include one-family residences, commercial space along Wisconsin Avenue, and institutional uses including churches, schools, and convent. (Ex. 8.)
5. The Main Campus is zoned R-5-A and R-1-B (west of Massachusetts Avenue); the East Campus is zoned R-5-A and R-5-B (Massachusetts Avenue frontage); and the Tenley Campus is zoned R-1-B.
6. The 2011 Campus Plan proposes more than 900,000 square feet of new campus development projects, including several that were also included in the 2001 Campus Plan but not constructed. Almost half of the new development will be devoted to student housing. (Ex. 238.)
7. The floor area ratio (“FAR”) of the combined campuses is currently 0.51, where a maximum of 1.8 is permitted. After construction of all new development proposed by the 2011 Campus Plan, the combined FAR would be 0.8. (Ex. 8.)
8. The general land-use categories presented in the 2011 Campus Plan to describe campus activities are academic/administrative, campus life/residential, parking, and athletic. The land use patterns proposed by the Applicant in the 2011 Plan are similar to the existing uses, with the exception of the East Campus and Tenley Campus. (Ex. 8.)

**Student Enrollment Caps**

9. The University's 2001 Campus Plan established student population caps of 10,600 (headcount) and 9,250 (full-time equivalent). The campus population caps excluded law students in light of the law school's off-campus location in a commercial zone at 4801 Massachusetts Avenue, N.W.
10. As of the date of its application, the University's student enrollment was 10,298, comprising 6,318 undergraduates (61% of total enrollment), 3,230 graduate students (32%), and 750 other students (seven percent). The University's law school currently enrolls 1,770 students. (Ex. 8.)
11. The University's proposed 2011 Campus Plan projects growth in student populations to 13,600, comprising 6,400 undergraduates, 4,400 graduate students, 2,000 law students, and 800 other students. The projected growth represents an increase of 13% in the total student population, which the University indicated would occur mainly as increases in graduate and law school enrollment (1,170 and 230, respectively) and not as increases in the number of undergraduate students (100). (Ex. 8; Transcript ["Tr."] of June 9 at 37.)
12. The Applicant opposed imposition of separate caps on undergraduate and graduate enrollment, citing fluctuations in the demand for specific education programs and the job market, and the need for flexibility in serving the educational needs of local, regional, and national populations and in meeting the job market demand for relevant academic programs. (Tr. of Nov. 3 at 178.)
13. The Office of Planning indicated its support for "a clear and consistent counting method to effectively measure the university's growth and assess its relative impacts," and commented favorably on the University's proposed headcount method, which "would capture all undergraduate, graduate, law school, continuing education, or any other students enrolled in an AU program who utilize facilities on any of its campuses." (Ex. 238.)
14. OP recommended implementation of measures designed to mitigate any objectionable impacts related to the number of students: (a) accept the overall total student cap and clarify that it includes all undergraduate, graduate, and law school students, and any student taking at least one class or course at any of the campuses covered by the Campus Plan; and (b) cap the law student enrollment at the University-stated expectation of 2,000. (Ex. 238, 375.)
15. ANC 3D asserted that the University should be "subject to its current cap of 10,600 students to be increased by the current law school enrollment of 1,770 once the law school is relocated," for a total of 12,370 students. According to ANC 3D, with the

exception of “[o]line students and employees who have no physical presence at the university in the community,” “any student who registers for a class at AU – no matter where the class is located – should be counted in the cap on the basis that the students are registered at AU’s main address and will be using campus facilities” and will contribute to traffic, whether as a driver or a pedestrian. (Ex. 45, 204, 590.)

16. ANC 3D also advocated implementation of “a reasonable cap that limits AU growth as a way to ensure the number of students is not likely to lead to objectionable conditions,” where a “‘reasonable cap’ would be one in which the university could house at least two-thirds or more of its student population in university-provided housing located on campus.” (Ex. 590.)
17. ANC 3E “strongly supports imposition of an enrollment cap.” According to the ANC, any campus plan approval should include an enrollment cap “with individual caps for each of the covered categories of students.” (Ex. 378.)
18. SVWHCA advocated “a cap on student headcount equal to the lesser of: (i) 10,600 (fulltime equivalent of 9,200) plus the number of law students currently present at the Washington College of Law building who have been relocated from that site; and (ii) 11,233 students (fulltime equivalent of 9,800).” The cap proposed by SVWHCA was designed so that, as the law school was relocated to the Tenley Campus, “other aspects of AU’s operations would need to be somewhat reduced in order to accommodate the increased on-campus presence associated with the law school.” As an alternative, SVWHCA advocated adoption of a cap on undergraduate enrollment, in light of a 27% increase since 2000, which was not projected in the 2001 Campus Plan, and to “give the community a chance to absorb the effects of increase Main Campus undergraduate housing, without *also* having to live with dramatic future growth that would be possible under AU’s proposed cap of 13,600.” (Ex. 152; emphasis in original)
19. SVWHCA also asserted that “any students physically present in nearby off-campus properties (defined as properties within a mile of either the campus or any other properties already included for this purpose) should be counted for purposes” of the student cap. (Ex. 152.)
20. NLC and WPHC contended that an enrollment cap lower than that proposed by the Applicant was “necessary to protect the character of the surrounding neighborhoods, to minimize objectionable conditions associated with growth, and to reflect the physical limitations of the campus site.” NLC/WPHC contended that the University’s “proposed increases in enrollment and staff will increase the burdens upon the surrounding communities,” as the “addition of more people on campus will cause more buildings, noise, traffic, parking problems and other objectionable conditions.” (Ex. 157.)

21. For the reasons discussed below, the Commission finds that the 2011 Campus Plan, as proposed by the University and subject to the conditions adopted in this Order, is not likely to create objectionable conditions due to number of students.

**Staff Cap**

22. The proposed 2011 Campus Plan projects an increase in University employment from the 2,200 cap adopted in the 2001 Campus Plan to a total of 2,900 employees. The University's current levels of employment are 2,318 for Campus Plan properties and 411 for the law school. (Ex. 8.)
23. ANC 3D recommended that the University's staff should be "capped at the current level of 2,200," subject to an increase of 400 employees to account for the law school after its relocation, for a total of 2,600. As with the student enrollment cap, ANC 3D argued that the staff cap should "apply to all campus educational program activities whether they are located in commercial property owned or rented by AU and that the university's expanding commercial property holdings should not be used as a way to circumvent the limits on growth imposed by a student and staff population cap." (Ex. 204.)
24. SVAHCA asserted that the University should be subject to a cap on employees of 2,400, including all faculty and staff currently present at the Washington College of Law building who have been relocated from its off-campus site on Massachusetts Avenue. (Ex. 152.)
25. For the reasons discussed below, the Commission finds that the 2011 Campus Plan, as proposed by the University and subject to the conditions adopted in this Order, is not likely to create objectionable conditions due to number of employees.

**Student Housing**

26. The University currently provides housing for undergraduate students in residence halls on campus and by means of a master lease for apartments in the Berkshire, a large apartment building located off campus. The residence halls are designed to accommodate approximately 3,533 to 3,549 students, although the University currently houses 4,083 students by assigning approximately 300 to triple rooms (i.e., three students living in a room designed for two) and 200 to apartments leased by the University in the Berkshire. (Ex. 8.)
27. A condition of approval of the 2001 Campus Plan required the University to maintain a supply of on-campus housing sufficient to make housing available for 85% of its full-time freshman and sophomore students as well as for two-thirds of all full-time undergraduates (with both percentages based on student headcount). (See Z.C. Order No.

949, Condition No. 4.) In that proceeding the Commission found that the University was then providing housing on campus for two-thirds of its undergraduate students and that 85% of freshman and sophomore students were living in campus dormitories, which then provided a total of 3,264 beds.

28. As of the fall semester of 2012, the University had 3,749 on-campus beds and 6,400 full-time undergraduate students, so that the University was providing on campus housing for 59% of its full-time undergraduate population. As part of the 2011 Campus Plan, the Applicant proposed to discontinue use of 497 beds on the Tenley Campus and to build new residences at four sites on the Main Campus sufficient to accommodate 1,300 students, resulting in a net increase of 803 beds on campus. (Ex. 602.)
29. The increase in beds will come in three phases. The first will occur by the fall of 2013 with the addition of 510 new beds resulting from the addition to Nebraska Hall and the construction of the new North Hall. Because of the loss of the 497 beds on the Tenley Campus, the net result will be 13 additional beds. The University will therefore continue to be providing on campus housing for 59% of its full-time undergraduate students. The number of beds will next increase by 590 when the East Campus residential buildings open at the start of the fall 2016 semester. This will raise the percentage of on campus housing to 67% of full-time undergraduate students. The University proposed to maintain this percentage of on campus housing beginning with the fall 2016 semester and continuing through the remaining term of the plan. The Applicant noted that the 67-percent housing requirement would effectively serve as a cap on undergraduate enrollment, since the University's ability to admit undergraduate students would depend in part on the availability of student housing. (Ex. 578, 602; Tr. of Nov. 3 at 179.) The University also committed to increase to 100% the number of on-campus beds available for full-time freshman and sophomore students by the start of the Fall 2016 semester.
30. The University was unable to predict when the final 200 on-campus beds would be added through the construction of South Hall.
31. Students living in University-provided housing are subject to residence hall regulations. The residence hall regulations prohibit certain types of disruptive conduct, and direct the students not to engage in behavior such as the following:
  - (a) To engage in any disorderly conduct or to interfere with the rights of other students in their academic pursuits. This specifically and especially pertains to other residents' rights to an environment conducive to study and to sleep;
  - (b) To engage in sports activity within the residence halls;

- (c) To engage in sports activity or to create excessive noise within 50 feet of any residence hall;
- (d) To shout or to otherwise create disturbances from any residence hall window;
- (e) To create excessive noise by any means, including playing loudspeakers through room windows at any time and creating noise audible outside a student room or in public areas, especially after 11:00 p.m. Sunday through Thursday, or past 1:00 a.m. on weekends. These times are considered quiet hours;
- (f) To drop or throw any object or any liquid from windows;
- (g) To enter or exit the residence hall through a window when no emergency is present;
- (h) To enter restricted areas including, but not limited to, building roofs;
- (i) To keep dangerous materials, including but not limited to, firearms, air or CO<sup>2</sup>-powered weapons, fireworks, and dangerous weapons;
- (j) To use, or possess any illegal drug (including medical marijuana) or drug paraphernalia in the residence halls.
- (k) To sell, manufacture, or distribute any illegal drug (including medical marijuana) or drug paraphernalia in the residence halls;
- (l) To knowingly and voluntarily be in the presence of any illegal drug (including medical marijuana) or drug paraphernalia in the residence halls;
- (m) To violate University policies pertaining to the use or possession of alcohol in the residence halls;
- (n) To violate University policies pertaining to the sale, manufacture, or distribution of alcohol in the residence halls;
- (o) To knowingly and voluntarily be in the presence of alcohol in the residence halls; or
- (p) To refuse to follow a directive from a housing staff member when acting in the performance of his or her duties.

32. AU students who do not live on campus live in the District of Columbia (62%), Virginia (24%), and Maryland (14%). Of the approximately 1,180 undergraduate students currently living off-campus within the 20016 zip code, 20% (238 students) live in student group houses while 80% (938 students) live in apartments. (Ex. 8.)
33. Of those undergraduates living in apartments, more than half live in either the Berkshire or the Avalon at Foxhall (42% and 24%, respectively), two buildings on Massachusetts Avenue within walking distance of the Main Campus, while the remaining 324 apartment-dwelling undergraduate students (34%) live in one of 45 buildings. (Ex. 8.)
34. The University has a master lease with the Berkshire, leasing 100 apartments to house two students in each unit. In addition to the master lease, many AU students rent apartments individually in the Berkshire, which has a total of 750 apartments. The University provides apartments for two full-time employees to help manage the student population in the building. The University plans to phase out the master lease when additional housing becomes available on campus. (Tr. of June 9 at 44, 119-122.)
35. Of the 124 houses containing undergraduate students, most (57 houses, or 46%) have one student occupant, while 47 houses (38%) contain only undergraduates and 20 (16%) are “mixed.” The 47 “undergraduate only” houses are located in various neighborhoods, including Tenleytown (15 houses), AU Park (12), Wesley Heights (six), Cathedral Heights (four), Cleveland Park and Palisades (three each), and Spring Valley and Friendship Heights (two each). The University reported 13 group houses with four or more students within the 20016 zip code. (Ex. 8.)
36. Of the graduate students living off-campus, the University reported that more than half (53%) lived in the District of Columbia, while approximately one quarter lived in Maryland or Virginia (26% and 21%, respectively). Of graduate students living within the 20016 zip code, the University reported that most lived in apartments (363 graduate students, or 63%) and approximately one-third lived in houses (214 graduate students, or 37%). (Ex. 391.)
37. Of the law students living off-campus, the University reported that most (62%) lived in the District of Columbia, with the remainder living in Maryland or Virginia (22% and 16%, respectively). Of law students living within the 20016 Zip Code, the University reported that slightly more than half lived in apartments (163 law students, or 53%), with the remainder living in houses (147 law students, or 47%). (Ex. 391.)
38. OP recommended retention of the condition requiring the University to provide on-campus student housing for at least 67% of its total undergraduate enrollment, consistent with the following conditions: (a) the housing for at least 67% of the total undergraduate enrollment should be provided within the campus plan boundaries; (b) student housing

provided to meet this condition should be used only for undergraduate student housing; (c) the University should carry out its proposal to transition the current off-campus undergraduate housing into on-campus housing and to construct new on-campus housing, so as to make housing available for at least 67% of the total undergraduate enrollment by the beginning of the academic fall semester 2016; and (d) any additional off-campus undergraduate housing used to achieve the 67% requirement after the spring semester of 2017 should be reviewed by the Commission as an amendment to the approved 2011 Campus Plan. (Ex. 238, 588.)

39. Although ANC 3D supported retention of the “existing mandate that AU be required to have enough housing available for 85% of freshmen and sophomores and two-thirds of all undergraduates if they choose to live on campus,” the ANC also objected that the University had not justified the need for 1,290 new student beds, which ANC 3D described as “excessive” and likely to lead to objectionable conditions for neighboring residents. While acknowledging “a need for new student housing,” ANC 3D indicated its preference for housing “located on sites at the core of the campus that do not create objectionable conditions for neighbors living adjacent to the university.” The ANC specified that “[a]ll student housing must have a minimum 120-foot landscaped buffer – that includes mature trees – with any neighboring residential property,” and that “[s]tudent residences should be built with tinted windows that shield from residents’ views the type of window hangings that are characteristically found in the windows of AU’s student dorms and the effect of lighted windows throughout the evening.” (Ex. 45, 204.)
40. ANC 3E asserted that the University should “house as many students as possible on campus” so as to “reduce car trips” and possibly “the number of shuttle trips necessary to serve off-campus students.” ANC 3E opposed any reduction in the percentage of students housed on campus, and instead favored a requirement larger than the University’s current two-thirds requirement, along with an effective enforcement mechanism “to ensure that any minimum requirement is adhered to.” According to ANC 3E, “the result of the campus plan must be to have significantly fewer undergraduates living off campus.” (Ex. 378.)
41. ANC 3E recommended that the University should be required to house no less than 70% of undergraduates on campus based on an undergraduate enrollment of 6,000, resulting in a base of 4,200 on-campus beds. As proposed by ANC 3E, the University would be permitted to increase undergraduate enrollment to a maximum of 6,400, provided that, for each additional undergraduate above 6,000, the University would add at least one on-campus bed. Under this scenario, if AU enrolled 6,400 undergraduate students the University would be required to provide 4,600 on-campus beds, serving approximately

72% of all undergraduates and ensuring a decline in the number of undergraduates living off-campus in the future. (Ex. 496.)

42. SVAHCA questioned the University's need for additional student housing, "given its actual housing practices in relation to its undergraduate population." SVAHCA also asserted that the University should help prevent use of off-campus residential properties as student group houses, which "can and do create serious problems," particularly relating to excessive noise. (Ex. 152.)
43. NLC and WPHC asserted that the Applicant had not "provided a coherent or persuasive explanation of its actual housing needs" and "failed to locate dormitories on the core of the campus." Instead, according to NLC/WPHC, the Applicant "continues to pursue housing at locations that will create visual, noise and other problems for quiet residential neighborhoods and, as a direct result, AU's proposals will create objectionable conditions." NLC/WPHC contended that "[i]n principle, the neighbors do not oppose on-campus housing for undergraduates," but "they do oppose massive dorms in locations where they will adversely impact neighboring homes" as well as "the construction of intrusive and over-sized buildings that have not been justified with accurate information about the University's actual housing needs or plans." (Ex. 157.)
44. For the reasons discussed below, the Commission finds that the 2011 Campus Plan, as proposed by the University and subject to the conditions adopted in this Order, is not likely to create objectionable conditions due to the University's provision of student housing.

**Student Behavior**

45. The University communicates its expectations for student conduct in person, in print, and online, including by way of its student code of conduct, residence hall regulations, housing license agreement, "Good Neighbor" guidelines, and documents needed to recognize a student organization. The expectations are also publicized in student orientation programs, residence hall meetings, training programs with student organizations and athletic teams, and informational sessions conducted by the University's office on student conduct. (Tr. of June 9 at 830.)
46. Students are subject to the University's code of conduct, which specifies that the University may take disciplinary action for infractions committed on- or off-campus. The University may take disciplinary action for off-campus infractions when a student's behavior threatens or endangers the safety and well-being of the campus community, or when a student is the subject of a violation of local, state, or federal law. The University recently amended the code to state that the University may also take action "when, in the judgment of university officials, a student's alleged misconduct has a negative effect on

the university's pursuit of its mission or on the wellbeing of the greater community." (Ex. 388, 578.)

47. The office of the dean of students tracks complaints received about student misbehavior, including those occurring at the residences of students living off-campus, and the University acknowledged that "from 6 to 10 'problem addresses' emerge each year" that "require intervention." According to the Applicant, after receiving a complaint, the staff of the dean of students' office will work with the University's public safety staff to "curb objectionable behaviors," the associate dean will meet with students living in a "problem address," and, "if trouble persists, the associate dean will engage the landlord or property manager." An offending student may face discipline by the University, police intervention, or termination of the lease by the landlord. (Ex. 8.)
48. Complaints may be submitted by telephone, email, or using an online complaint form, and may be made to the University's public safety officers as well as to the police. When an incident is reported about a particular address, the associate dean of students will gather information about the incident, identify and meet with the students living at that address, provide them with a written statement delineating the University's expectations with respect to their behavior, and communicate with coaches, organization advisors, and national headquarters of fraternities or sororities as needed. If a neighbor who reported the incident is known, the associate dean will provide the neighbor with information about the outcome of the investigation, as appropriate. A student or organization will be referred to the University's student conduct process when evidence supports a charge under the student code of conduct. The University has implemented an escalating series of sanctions for first and repeated violations, including issuance of a censure, mandatory attendance at a community standards course and other educational sanctions; disciplinary probation, which restricts student privileges; and suspension or dismissal from the university. (Ex. 578; Tr. of June 9 at 88-90.)
49. Since approval of the 2001 Campus Plan, the University has implemented several additional strategies to manage off-campus student misconduct. These include that the University: (a) amended the student code of conduct to extend its jurisdiction, allowing the University to bring charges under the code for off-campus misbehavior; (b) formed a standing committee of University administrators who meet every other week during the academic year to track cases and coordinate interventions; (c) improved the complaint process by creating a 24-hour telephone line and online complaint form and by designating the associate dean of students as the principal case manager for problem resolution; (d) assigned a public safety officer to briefings of the Metropolitan Police Department's Second District to enhance collaboration between the University and the police; (e) opened communication between the University's office of community and local government relations and landlords and realtors to build relationships and assist in resolving problems; and (f) created and distributed informational brochures and other

materials to provide neighbors with useful information and key contacts for University programs and complaint resolution. The University also added two employees in its Off-Campus Services and established a community relations coordinating committee. (Ex. 8.)

50. Before the start of each Fall semester, the University communicates its expectations for student conduct to students with off-campus addresses. The University identifies and communicates with the landlords of off-campus addresses where AU students live, and screens those addresses where AU students rent and alerts the relevant District government agencies to addresses that are not properly licensed for rental. The University also identifies houses where multiple members from the same organization or team live, and meets with those organizations and teams to clarify expectations regarding their conduct. The University offers a mediation service for students and neighbors, and works with student government leaders to promote good neighbor relations. (Tr. of June 9 at 90-91.)
51. ANC 3D initially adopted a resolution stating in part that “the Neighborhood Action Plan is ineffective and inadequate in protecting the neighborhood from disruptive student behavior off campus.” The ANC recommended modification of the action plan after “meaningful dialogue with residents with a goal of making the program more responsive to the needs of residents living near the campus.” ANC 3D also contended that “AU officials have not been vigilant in responding to residents’ concerns,” so that often “problems continue for the academic year and are only solved when the tenants move to another location or graduate.” ANC 3D later commented favorably on the University’s recent “significant change” that “should make it easier to apply the student code of conduct to off-campus student behavior,” but emphasized that concerns raised by residents about student off-campus behavior persisted. (Ex. 45, 204, 590.)
52. ANC 3D also recommended inclusion of a condition requiring the University “to engage the community in a dialogue concerning locations for alcohol service on campus with a goal of limiting alcohol service to 6-8 buildings.” (Ex. 45, 204.)
53. In light of its view that “a subset of students has caused significant problems in the community,” ANC 3E recommended that the Commission “approve no campus plan ... unless AU revokes its dry campus policy,” which “effectively exports a disciplinary problem caused by the University’s students from AU’s campus to the neighboring community.” (Ex. 378.)
54. NLC and WPHC contended that the University “has an ongoing problem with underage drinking, late-night social activities, noisy student lifestyles, illegal parking, and jaywalking.” According to NLC/WPHC, the Applicant “has failed to recognize or solve these issues in a meaningful or adequate manner” and “has not mitigated the

objectionable conditions associated with hundreds of new student beds on the periphery of the campus.” NLC/WPHC also contended that the University’s proposal to comply with the student code of conduct adopted in Fall 2010 will be “inadequate if dormitories are located on the periphery of the campus.” According to NLC/WPHC, the University should be required “[a]t a minimum … to use its private security force to patrol the halls of dormitories with appropriate access to student rooms when required.” (Ex. 157.)

55. For the reasons discussed below, the Commission finds that the 2011 Campus Plan, as proposed by the University and subject to the conditions adopted in this Order, is not likely to create objectionable conditions due to student behavior.

**Vehicular Traffic**

56. The Applicant’s traffic study indicated that vehicular travel and parking demand at the Main Campus have been decreasing over the past decade, including during commuter peak hours. According to the Applicant, this trend indicated that “impacts to the surrounding transportation network will be minimal with the development of the 2011 Plan,” given that the University will maintain programs and policies directed to the reduction of vehicular-based traffic. (Ex. 8.)
57. As part of the 2011 Campus Plan, the University proposed to continue and improve its existing transportation demand management (“TDM”) program, which is designed to reduce vehicular demand to the campus. The TDM strategies currently implemented by the University include the AU Shuttle system, a free service that currently runs between the Main and Tenley Campuses, the Washington College of Law site on Massachusetts Avenue, and the Tenleytown-AU Metrorail station; a carpooling program, which offers discounted parking for participating employees; a ride-sharing program for students and employees; car- and bicycle-sharing programs; participation in the SmartBenefits program to encourage use of public transit; and measures to encourage use of bicycles. As part of the 2011 Campus Plan, the University will enhance the marketing of TDM programs by, among other things, creating an enhanced website consolidating all transportation information in one location, incorporating bicycle parking in new residence halls, and reserving space for future expansion of car- and bicycle-sharing stations. The Applicant also proposed measures to promote its TDM programs and to monitor their effectiveness. (Ex. 8, 50.)
58. DDOT made a recommendation “conditionally supportive” of the Applicant’s proposal, and indicated its agreement with the methodology, including the underlying assumptions such as projections of modal splits, used in the traffic study submitted by the Applicant’s experts. (Ex. 229; Tr. of Sep. 22 at 220.)

59. According to DDOT, the addition of new facilities on the AU campus would significantly change pedestrian patterns in the area, citing especially the development of the East Campus and the resulting increase in number of pedestrians crossing Nebraska Avenue. Nevertheless, DDOT concluded that approval of the proposed campus plan would create “minimal vehicular impacts,” citing trip generation characteristics and the planned reduction in the number of parking spaces on campus, and that the level of service for vehicular traffic would not significantly change. (Ex. 229.)
60. DDOT expressed support for all the TDM strategies proposed by the University, and requested that the University appoint a TDM liaison to work with DDOT, the Washington Metropolitan Area Transit Authority (“WMATA”), the Department of Homeland Security (whose offices are located near Ward Circle), and the community on transportation issues. DDOT also commented favorably on the Applicant’s proposed changes to the shuttle routes and to consolidate Metrobus and shuttle stops. According to DDOT, the planned changes would minimize travel delay for buses and vehicles, make the system more user-friendly, and allow the shuttle to serve the entire Main Campus. (Ex. 229.)
61. OP noted the location of the campus adjacent to major arterial and connector streets that carry significant vehicular commuter traffic, and that the campus is well served by public transit, including the University shuttle buses as well as Metrobus and Metrorail. OP indicated its support for the University’s efforts to develop a TDM plan and increase access to alternative forms of transit for students, faculty, and visitors to the campus. (Ex. 238.)
62. ANC 3D testified that the University’s proposed campus plan, and in particular the East Campus proposal, were likely to cause objectionable conditions relating to traffic. ANC 3D also asserted that the Applicant’s proposed TDM strategies, including its incentives for carpooling, would not be effective, and recommended “other strong and enforceable mitigation measures that might go so far as limiting and staggering the arrival and departure times of staff driving to campus.” ANC 3D provided testimony from David Fields, an expert in transportation planning, who stated that the University had not addressed “several technical transportation issues” and suggested “additional TDM measures worth considering.” These measures included a peak hour auto trip cap, so that “any year where AU’s population generates more than the approved maximum number of auto trips, AU should be required to further increase their TDM program and identify to the Zoning Commission and to the community how they intend to reduce this number in the future.” (Ex. 45, 470, 471.)
63. SVAHCA challenged AU’s assertion that the number of vehicle trips generated by the Main Campus during the weekday morning and evening peak hours has declined by almost four percent per year since 1999, and described the Applicant’s traffic study as

“deeply flawed,” with “severe shortcomings as measured against the common sense perception of residents regarding the effect AU has on traffic.” (Ex. 152.)

64. NLC and WPHC objected that “AU’s purported efforts to minimize [pedestrian/vehicle] conflicts” were “focused upon public roadways, rather than the location and uses of AU’s proposed buildings.” According to NLC/WPHC, “AU’s current plan will encourage all students, employees and visitors to cross Nebraska Avenue for retail shopping, food consumption, a welcome center and dormitories” while “the University has dramatically reduced parking in the area.” (Ex. 157.)
65. For the reasons discussed below, the Commission finds that the 2011 Campus Plan, as proposed by the University and subject to the conditions adopted in this Order, is not likely to create objectionable conditions due to traffic.

Campus Parking

66. The University currently provides approximately 2,724 parking spaces on campus. According to the Applicant, demand for on-campus parking has declined since 2000. Surveys performed by the Applicant’s traffic experts in Fall 2010 showed that the parking inventory peaked at 53% occupied on a typical weekday during the semester.
67. In the 2011 Plan, the University proposed to reduce the number of on-campus parking spaces by 429, to approximately 2,200 spaces, in light of its projection of on-campus parking demand of 1,500 spaces over the term of the new plan. Some parking spaces will be added or removed at various locations to accommodate new or enlarged buildings. (Ex. 8; Tr. of June 9 at 198-199.)
68. The cost of campus parking is \$120 per month for full-time employees and \$964 per academic year for students. Freshman students are not permitted to keep cars on campus.
69. SVWHCA described the Applicant’s plans for parking as “completely inadequate,” considering the projected numbers of additional staff and students the University intended to bring on campus. SVWHCA acknowledged that the University “has some unused parking spaces,” but attributed them not to a “lack of parking need” but to the cost of parking – \$80 per month charged by the University or the risk of a \$75 ticket payable to the University if caught parking on neighborhood streets. According to SVWHCA, the Applicant’s program to prevent parking by University-affiliated vehicles on neighborhood streets is ineffective, and “[r]esidents attest to the results, which is that AU students routinely park on neighborhood streets.” SVWHCA concluded that “[w]hen the spaces on AU’s campus are both inadequate in number and too expensive, the parking problems associated with AU are sure to increase dramatically.” (Ex. 152.)

70. For the reasons discussed below, the Commission finds that the 2011 Campus Plan, as proposed by the University and subject to the conditions adopted in this Order, is not likely to create objectionable conditions due to the provision of on-campus parking spaces.

**Off-campus Parking**

71. As part of its “Good Neighbor Policy,” the University issues tickets, and assesses fines, to university-related vehicles parking on neighborhood streets. A significant number of streets in the vicinity of the campus are subject to the residential parking permit regulations of 18 DCMR § 2411, which limit parking for vehicles that lack the permits. Recent enhancements to the Good Neighbor program by the University include the elimination of waivers for first offenses and implementation of greater sanctions for repeat violations, including higher fines and potential administrative penalties such as student code of conduct violations and disciplinary action. (Ex. 10, 438, 578, 589; Tr. of June 9 at 79; Tr. of November 3 at 181-182.)
72. DDOT estimated that student parking in the neighborhood is under 10% of total parking, or about 150 spaces. (Ex. 229.)
73. ANC 3D challenged the University’s assertion that “there is no off-campus parking problem based on a survey it conducted of on-street neighborhood parking availability.” According to ANC 3D, the University’s “parking enforcement program is not working given that the number of citations issued by AU has increased steadily each year since 2006.” (Ex. 5903)
74. NLC and WPHC contended that “AU’s off-campus parking enforcement process has not solved the parking problem in the neighborhoods.” NLC/WPHC claimed that drivers have a “continuing incentive to park off campus” because the University’s “fees for parking on campus are prohibitively high for many students and staff,” and that “the problem will be exacerbated” if the supply of campus parking is reduced, as the Applicant requested. Instead, NLC/WPHC argued that the University “should be required to provide sufficient parking at affordable prices,” “provide consistent and more effective enforcement of illegal parking” so that neighbors are no longer required “to be the ‘policing’ mechanism for AU’s students and staff.” NLC/WPHC advocated conditions requiring the University to face fines “to place a substantial monetary cost ... when it generates significant spill-over parking,” or to reduce enrollment if parking plans are inadequate to prevent spill-over parking on neighborhood streets. (Ex. 157.)
75. For the reasons discussed below, the Commission finds that the 2011 Campus Plan, as proposed by the University and subject to the conditions adopted in this Order, is not

likely to create objectionable conditions due to the parking of University-affiliated vehicles on streets in the neighborhoods surrounding the campus.

**Noise**

76. The University testified that uses within the Campus Plan boundaries are designed to minimize objectionable impacts on the neighboring community. The University also provides open space and landscaping buffers between university facilities and the surrounding community. (Ex. 8.)
77. The University's athletic facilities – Jacobs and Reeves Fields – are located on the western side of the Main Campus. Use of the fields is limited to daylight hours; no lights have been installed. Jacobs Field is the practice and playing field for the women's field hockey and lacrosse teams, and is also used for intercollegiate, intramural, and club sports as well as recreational activity. Jacobs Field also has a baseball/softball infield and backstop and some volleyball courts. Reeves Field is the primary playing field for the men's and women's soccer teams, and also has an oval track used for track and cross country competitions and for recreational running. Tennis courts are located adjacent to Reeves Field. (Ex. 440.)
78. Amplified sound has been used intermittently on the athletic fields, primarily during intercollegiate competitions and during a limited number of "special events." Amplified sound is not permitted during sports practices. According to the Applicant, amplified sound has been used, on average, 35 to 40 times annually for a limited duration; for example, during a regular-season lacrosse or field hockey match, the use of amplified sound would last 60 minutes for music and 10 minutes for announcements. University staff monitor the amplified sound levels at games, taking readings (at the fence line, which is 25 to 50 feet inside AU's western property line) during pre-game activities, during the first half, and during the second half. The staff are directed to "make all reasonable efforts to reduce the sound" when the volumes exceed 60 decibels. (Ex. 440, 575.)
79. The University previously implemented measures to mitigate impacts on neighboring properties from use of the athletic fields, including the installation of one-way/key access gates that allow neighbors to enter university grounds but do not allow access by students or University staff, removal of both a roadway encircling the fields along the property line and campus parking in the area along the property line, installation of landscaping and a decorative fence ranging from 25 to 50 feet from the western property line on AU property, and imposition of restrictions on non-athletic "special events." (Ex. 440.)
80. The Applicant proposed a number of conditions restricting the use of Jacobs Field to ensure that noise will not be objectionable to neighboring residents. The conditions will

initially ban the use of amplified sound and the scoreboard air horn until a new sound system is installed, and will subsequently limit the use of amplified sound on Jacobs Field only for intercollegiate athletic events, sporting events sponsored by the University, and for limited special events. Amplified sound will not be used for athletic team practices, intramural sporting events, university club sports, and university Greek life sports, and spectators will not be permitted to use cowbells and similar devices. The University will install an alternative sound system, selected in collaboration with a nearby neighbor, which will distribute sound more evenly at the ground level. (Ex. 575, 608.)

81. The University also proposed to provide neighboring property owners with telephone numbers to reach appropriate representatives of its Public Safety Department or the Dean of Students Office to address concerns regarding noise on the fields. At the beginning of each academic year, the University will use its best efforts to publicize, via written materials, fax, email, and its community relations website, all athletic events scheduled for Jacobs Field. In the case of athletic events scheduled less than 30 days in advance, the University will make all reasonable efforts to publicize the events as soon as possible. (Ex. 575.)
82. OP noted that the 2011 Campus Plan proposed several projects that would expand existing academic, athletic, and student life facilities on the Main Campus. OP concluded that the new facilities would not likely become objectionable to adjacent property on account of noise in light of their location at the core of the campus, shielded from neighbors by existing buildings and landscape features. (Ex. 238.)
83. However, OP noted that “certain elements of the campus plan could be improved to lessen their potential noise impacts,” stating that the location and size of the proposed additional bleacher seats, when combined with the use of the existing playing fields to the south, was likely to create an objectionable condition for the neighbors to the immediate west. (Ex. 238.)
84. OP recommended implementation of several measures designed to reduce noise impacts of the university use, including: (a) installation of an alternative speaker/sound system at the Williams/Jacobs Recreational Complex fields that would distribute sound more evenly at ground level as opposed to the use of a traditional loudspeaker system; (b) implementation of such other measures along the western boundary of the Williams/Jacobs Recreational Complex fields, including sound curtains or other devices as are effective in reducing the sound from the field to a non-objectionable level and are agreeable to neighboring homeowners; and (c) collaboration with the adjacent neighbors to create an enforcement policy that would clearly articulate the types of activities subject to its conditions and identify an AU contact person directly accountable for their enforcement. (Ex. 238, 375.)

85. NLC and WPHC objected to action by the University that had “completely changed the nature and use” of one of the playing fields by converting it from an “intramural field” used for “casual events with no noise-emitting devices” to a larger field with an electronic scoreboard used for “a complete schedule of intercollegiate games, which AU accompanies with loud speaker announcements, amplified rock music, and air horn blasts.” NLC/WPHC asserted that the 2011 Campus Plan should “include regulation of athletic events along with all other noise-creating events” so that their noise impacts will not become objectionable to neighboring property. (Ex. 157.)
86. Robert Herzstein, a party in opposition who resides in a detached dwelling on Woodway Lane, N.W., adjacent to the athletic fields, contended that activities on the campus have caused “severe adverse noise impacts” on neighboring houses, particularly arising from the University’s athletic fields due to the frequency of sports events and the use of amplified sound and air horns. According to Mr. Herzstein, in light of on-going problems with noise, the new campus plan should bring athletic events under the same rules adopted in the prior campus plan for “special events” and ensure that the University would avoid noise that would be objectionable to neighboring property. Mr. Herzstein proposed a series of conditions related to the University’s use of its athletic fields, including provisions restricting the use of amplified sound, creating a binding dispute resolution process, and requiring the Applicant to “work in good faith with the immediate neighbors of the playing field and an independent sound engineering firm, selected by mutual consent, to devise a way to reduce the impact of sound from its speakers on neighbors,” with the use of sound amplification forbidden until a resolution was found. (Ex. 155, 513, 551.)
87. For the reasons discussed below, the Commission finds that the 2011 Campus Plan, as proposed by the University and subject to the conditions adopted in this Order, is not likely to create objectionable conditions due to noise.

New Development

88. The 2011 Campus Plan proposes 10 projects totaling approximately 850,000 square feet of new development on the Main and Tenley Campuses that the University plans to undertake over the term of the plan. All but one of the projects would be located on an existing building site or on a parking lot, road, or other paved area. The projects are: the relocation of the Washington College of Law to the Tenley Campus;<sup>1</sup> construction of two

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<sup>11</sup> This project was approved by the Commission in a further processing application, Z.C. Case No. 11-07B, decided on April 9, 2012. *See* Z.C. Order No. 11-07B.

new student residences, North Hall<sup>2</sup> and South Hall; expansion of the chemistry building, a project known as the Beeghly Addition; additions to the Multipurpose Gymnasium and replacement of the Sports Center Annex; installation of new bleachers to create additional seating at the Reeves Field; an addition to the Kay Spiritual Life Center; and enclosure of the Butler Tunnel under the Sports Center Garage. (Ex. 8.)

89. Relocation of Washington College of Law to the Tenley Campus: The University testified that the existing law school facilities at 4801 Massachusetts Avenue, N.W. are not sufficient to meet the future needs of the students, faculty, and staff of the Washington College of Law (“WCL”). The Applicant proposed to provide space for 2,000 law students and 500 employees of WCL in existing and new buildings at the Tenley Campus, along with 400 to 500 parking spaces accessed from Nebraska Avenue. Pedestrian entrances to the site will be provided on both Nebraska Avenue and Yuma Street. (Ex. 8.)
90. WCL currently has a total enrollment of 1,860 (1,430 day students and 430 night students) and a total staff of 411 (223 full-time and 188 part-time, including 130 adjuncts). The law building opens at 8:00 a.m. and classes are held between 8:30 a.m. and 10:00 p.m. Monday through Thursday, and 8:00 a.m. until 2:00 p.m. on Fridays. The peak class enrollments occur between 10:00 a.m. and 7:00 p.m. The library is officially open from 8:00 a.m. until midnight during the academic semesters, although students have access 24 hours per day, seven days per week. (Ex. 376, 385.)
91. Parking for WCL is currently provided both on- and off-site. The total inventory of 480 parking spaces includes 300 spaces in the WCL garage, 55 spaces in the garage of the Katzen Arts Center, 25 spaces in the parking lot of a nearby grocery store, and 100 spaces in a nearby garage and in leased buildings. (Ex. 385.)
92. The University testified that the existing class enrollment pattern at WCL reflected that “much of the travel to the law school today is outside rush hour periods,” and that the same pattern “is expected to continue in the future.” (Ex. 376.)
93. WCL currently hosts approximately 100 events per year, most (such as orientations and roundtables) attended by students already at the law school. The University testified that events drawing people outside the regular law school population are scheduled during times when regular classes are not in session (weekends and summer), and that similar events are anticipated in the future. The University also expects to continue its current practice of accommodating “requests from civic groups, such as high schools and

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<sup>2</sup> This project was approved by the Commission in a further processing application, Z.C. Case No. 11-07A, decided on March 8, 2012. See Z.C. Order No. 11-07A.

neighbors, who want to use the library or other facilities on a space-available basis.” (Ex. 376.)

94. OP had “no objection to the proposed land use” for the Tenley Campus but encouraged the University to work with the Historic Preservation Office on the proposed design of the planned buildings. OP concluded that the proposed relocation of WCL to the Tenley Campus would not likely create any objectionable noise impacts, given the proposed use for professional academic and administrative purposes and that most of the new development would occur in the interior of the campus. (Ex. 238.)
95. ANC 3D expressed support for the relocation of WCL as proposed by the University. (Ex. 45, 204.)
96. ANC 3E contended that the Applicant had not provided sufficient detail on its plan to move the law school to the Tenley Campus, which created issues pertaining to “design, traffic, parking, promotion of public transit usage, and enforceable neighborhood conservation protections, among others.” (Ex. 119.)
97. ANC 3F also objected that the Applicant had not provided adequate information about its plans for the Tenley Campus. (Ex. 63.)
98. TCNA asserted that “[p]utting the Law School on the Tenley Campus is fundamentally incompatible with the neighborhood’s residential character,” and that the Applicant’s proposal was in fact a proposal to significantly expand its law school. According to TCNA, the Applicant had not provided complete information about all activities proposed for the law school site, and had undercounted the number of “special events” likely to be held at the Tenley Campus. (Ex. 116, 427.)
99. TNA contended that the Applicant’s proposal should be rejected because the “expanded population..., increased intensity of uses on the site, amplified traffic volumes and enlarged facilities will create conditions that are objectionable to neighboring properties.” (Ex. 599.)
100. North Hall: The University proposed to construct a new six-story residence hall on a surface parking lot behind the President’s Office Building to provide housing for 360 students. (Ex. 8, 50.)
101. OP testified that location of the North Hall was “suitable for additional student housing” but encouraged the University to “study further how existing site topography can be utilized to either lower the building height or mitigate its appearance from Massachusetts Avenue.” (Ex. 238.)

102. ANC 3D indicated that “construction at the North Hall site is acceptable in principle” but contended that the University “failed to mitigate neighbors’ objections.” According to ANC 3D, “the building’s size should be reduced significantly – at least in half – and designed in a way to minimize visual impacts on Massachusetts Avenue, respect existing topography, and be in scale with the President’s House.” (Ex. 45, 204.)
103. ANC 3E testified that the site behind the President’s Office was an appropriate site for student housing, and recommended approval “in principal [of] the idea of the inclusion of North Hall” in the approved Campus Plan while reserving judgment “on the specifics of the further processing application.” (Ex. 378, 496.)
104. NLC and WPHC testified that “North Hall is a potentially acceptable site for a residence hall, but the neighbors are concerned about the configuration, placement, height and visibility of AU’s specific proposal for that site.” According to NLC/WPHC, the Applicant’s proposal did not satisfy requirements with respect to configuration, location, height, and design, especially considering “Massachusetts Avenue’s visual corridor and views of the President’s building.” (Ex. 157.)
105. South Hall: The University proposed to construct a new six-story building adjacent to the existing south residence hall complex to provide housing for 200 students. (Ex. 8.)
106. ANC 3D testified that the South Hall project “should not be approved because of its location on the highest point of the campus,” where “[i]t seems geographically impossible to mitigate the impact of residents’ objections.” (Ex. 45, 204.)
107. ANC 3E testified that the proposed South Hall would “strengthen the University with no significant adverse impact on the neighborhoods.” (Ex. 496.)
108. NLC and WPHC testified that “neighbors unequivocally oppose the proposed South Hall, which will cause objectionable conditions for nearby residents of Spring Valley because of its placement on the highest point of the campus, directly overlooking nearby homes with no possibility of an effective buffer.” (Ex. 157.)
109. Robert Herzstein asserted that the South Hall project should be deleted from the 2011 Campus Plan because it would “create extremely objectionable visual and noise impacts on nearby residences,” given that the six-story building would be “on the very highest point of land on the campus” without an effective buffer for its impact on neighbors. (Ex. 155.)
110. Beeghly Addition: The University proposed a five-story addition to its chemistry building to allow consolidation of all science instruction and research in one facility. The addition would enlarge the existing building by 60,000 square feet. (Ex. 8.)

111. ANC 3D expressed support for the Beeghly addition provided that the size would be reduced to 50,000 square feet, the addition would be no higher than the existing building, and that, as part of the further processing application, the University would be required to show how the addition would be shielded from residents' views. (Ex. 45, 204.)
112. ANC 3E testified that the proposed Beeghly Addition would "strengthen the University with no significant adverse impact on the neighborhoods," while recognizing that any remaining issues could be resolved. (Ex. 496.)
113. The parties in opposition advocated a reduction in size of the proposed Beeghly addition so as to avoid a solid, massive wall on top of a ridge. (Ex. 524.)
114. Multipurpose Gymnasium and Sports Center Annex Replacement: The University proposed additions to its athletic facilities that would connect to the existing Sports Center. (Ex. 8.)
115. ANC 3D expressed support for the Multisport Gymnasium project provided that the size would be reduced to 15,000 square feet, the building façades would not be objectionable to residents, and the building would be no higher than 24 feet. The ANC also expressed support for the Sports Center annex provided that the size would be reduced to 24,000 square feet and the height to 24 feet. (Ex. 45, 204.)
116. ANC 3E testified that the proposed Multipurpose Gymnasium and Sports Center Annex Replacement would "strengthen the University with no significant adverse impact on the neighborhoods." (Ex. 496.)
117. The parties in opposition opposed the University's gymnasium project as proposed, citing a need to reduce its height and size so as to avoid objectionable conditions due to height, light, appearance and noise. (Ex. 597.)
118. Reeves Field Bleachers: The Applicant initially proposed to create additional seating for its natural-grass competition field by adding 2,000 bleacher seats to the existing 800 seats at Reeves Field in a project requiring demolition of the Osborn Building and reconfiguration of the main campus roadway. Storage and service space for the field would be located under the bleachers. The Applicant ultimately proposed to build 250 bleacher seats, as previously approved in the 2001 Campus Plan but not constructed, to accommodate spectators who now stand on the track surrounding the field to watch events. The Applicant asserted that reorientation of the bleachers, so as not to face adjoining residences, was not necessary to mitigate any potential noise impacts in light of the reduced number, the distance of the bleachers – approximately 450 feet – from the

nearest property line, and the University's plans to install an alternative sound system that would distribute sound more evenly at ground level. (Ex. 8, 241, 575.)

119. OP did not oppose installation of bleachers at Reeves Field but, to reduce noise impacts, recommended a reduction in the proposed number of bleachers and their reorientation so as not to face the adjacent houses. (Ex. 238.)
120. ANC 3D opposed construction of the Reeves Field bleachers on the ground that the project was likely to create objectionable conditions. ANC 3D challenged the acoustical engineering assessment submitted by the University, alleging that the assessment did not measure sound levels during field use but was "based on a series of questionable assumptions." (Ex. 45, 204, 590.)
121. ANC 3E recommended approval of the Reeves Field proposal while recognizing that any remaining issues could be resolved in the further processing application submitted by the University for approval of the project. (Ex. 496.)
122. NLC and WPHC opposed construction of the new bleachers, which NLC/WPHC asserted would create objectionable noise and other conditions, such as parking and traffic, particularly if the University planned to expand usage of the field after installation of the new bleachers. (Ex. 157.)
123. Kay Spiritual Life Center Addition: The University proposed to construct an addition of 10,000 square feet to the north end of its interfaith religious center. (Ex. 8.)
124. ANC 3D expressed support for the addition to the Kay Spiritual Life Center as proposed by the University. (Ex. 45, 204.)
125. ANC 3E testified that the proposed addition to the Kay Spiritual Life Center would "strengthen the University with no significant adverse impact on the neighborhoods." (Ex. 496.)
126. Butler Tunnel Enclosure: Reconfiguration of the main campus roadway would allow enclosure of approximately 20,000 square feet of space under the Sports Center Garage for use as student activity space. (Ex. 8.)
127. ANC 3D expressed support for the enclosure of the Butler Tunnel as proposed by the University. (Ex. 45, 204.)
128. ANC 3E testified that the proposed enclosure of the Butler Tunnel would "strengthen the University with no significant adverse impact on the neighborhoods." (Ex. 496.)

Further Processing Applications

129. In addition to approval of a new campus plan, the Applicant requested approval of three further processing projects: the East Campus, redevelopment of a surface parking lot with six buildings containing student housing, administrative and academic space, and retail space; the Nebraska Hall Addition, enlargement of a residence hall to add 150 beds; and the Mary Graydon Center Addition, enlargement of the student center to add dining and activity space.

A) East Campus

130. As finally proposed, the East Campus will comprise six new buildings – three residence halls and three buildings devoted primarily to academic and administrative purposes – built on the site of a parking lot located across Nebraska Avenue from the largest portion of the Main Campus. The East Campus development will provide a total of approximately 329,000 square feet of new space for the University. (Ex. 8.)

131. The eight-acre East Campus is currently used as a parking lot with approximately 900 parking spaces used by University staff and students as well as visitors to the campus. The lot is currently underutilized, with approximately 55 to 60% of the spaces in use. (Ex. 8; Tr. of June 9 at 127.)

132. The three residential buildings (known as Buildings 1, 2 and 3) will contain a total of 590 beds for undergraduate students (except for freshmen students, who will not be permitted to live on the East Campus). Each residential building will have a rear setback of at least 100 feet, and no dormitory windows will face the Westover Place community. (Ex. 8, 50, 575.)

133. The “buffer buildings” (Buildings 4 and 6) will be located between the student residences and the adjoining townhouses in Westover Place, and sited to block noise from activities occurring on two courtyards located at the center of the East Campus. To minimize noise impacts, the buildings will not have direct entrances on the ground floor, or balconies or terraces, on their eastern elevations. The buildings will be 34 feet in height, equivalent to the height of the abutting Westover townhouses. To minimize the appearance of height, the buffer buildings will have flat roofs, without rooftop penthouse structure. The construction of Buildings 4 and 6 will be sequenced so that those buildings will be completed no later than the opening of the student housing buildings on the East Campus. (Ex. 8, 50, 602.)

134. The buffer buildings will be used for a mix of classrooms and offices. The University’s classroom buildings are open between 8:00 a.m. and 11:00 p.m., with classes in session between 8:30 a.m. and 10:40 p.m. The University occasionally uses its classroom

buildings for purposes of continuing education programs, typically held during evenings and weekends, and to host conferences, particularly during summer months when fewer classes are in session. Offices, with motion sensor lighting that turns off lights when no one is present, will be located along the wall of the academic/administrative buildings that will face the Westover Place property line. Office hours vary depending on the function of a particular office. (Ex. 575; Tr. of June 23 at 23, 28.)

135. The residence halls will be located at least 100 feet from the eastern property line shared by the University with Westover Place, and will be sited to provide the narrowest profile view to the Westover Place properties. The buffer buildings will be separated by a distance of 40 to 80 feet from the property line. The University will create a buffer area between Buildings 4 and 6 and the Westover property line by supplementing the existing trees with a landscaped berm and additional plantings. The majority of the buffer will be 55 to 60 feet deep, with one small area of 40 feet. (Ex. 50, 575.)
136. Building 1 will be a student residence building located along Nebraska Avenue, with a setback of approximately 70 feet. Building 1 will be six stories in height (62 feet) and will house 274 beds. The first floor will contain approximately 3,000 square feet of retail space, expected to be devoted to campus-serving food and non-food retail establishments such as an education service provider or an insignia clothing store, as well as meeting space for residential life activities, and apartments for faculty and staff. A vegetative buffer will restrict pedestrian movement from the sidewalk to a 24-foot-wide promenade area adjacent to Building 1. An opening in the building's frontage on Nebraska Avenue will accommodate a vehicular driveway into the East Campus from Nebraska Avenue. (Ex. 8, 50, 602.)
137. Building 2, another student residence building, will provide 140 beds in a five-story building (54 feet) with frontage along New Mexico Avenue. The building will be oriented so that the windows from dormitory rooms will face a courtyard and not overlook the Westover Place community. (Ex. 8, 50.)
138. Building 3, located in the center of the East Campus, will provide approximately 176 beds in a five-story student residence building (54 feet). Adjoining courtyards, 165 feet wide, will provide active and passive recreation space for East Campus residents. The first floor will contain meeting space and apartments for faculty and staff. The building will be oriented so that window from dormitory rooms will face a courtyard and not overlook the Westover Place community. (Ex. 8, 50.)
139. Building 4 will be used for administrative and academic purposes. The two-story building (24,000 square feet) will be sited to provide a physical buffer between the residential uses on the East Campus and the Westover Place townhouses to the east. (Ex. 8, 50.)

140. Building 5, a new administrative building located at the intersection of Nebraska and New Mexico Avenues, will house a new Admissions Welcome center, and other administrative offices. Building 5 will be four stories in height (54 feet). (Ex. 8, 50.)
141. Building 6, an administrative/academic building of 17,700 square feet, will be located to provide a physical buffer between the East Campus residential buildings and the neighboring Westover Place community. At two stories (34 feet), Building 6 will have approximately the same height as the abutting townhouses, and will provide meeting space, residential life activities space, offices, and academic space. (Ex. 8.)
142. The East Campus residential buildings, like the University's other residential buildings, will be served by a resident assistant on each floor as well as a resident director and desk receptionists. The East Campus residential buildings will also be subject to the same residence hall regulations in place at the University's other residential buildings; these regulations (see Finding of Fact No. 31) prohibit disorderly conduct and specified activities. (Ex. 440.)
143. The Applicant proposed to install a mid-block pedestrian-actuated signalized cross walk to allow pedestrians to cross Nebraska Avenue between the intersections of New Mexico and Nebraska Avenues and Massachusetts Avenue and Ward Circle. A signal warrant analysis performed by the Applicant's traffic expert for the intersection of Nebraska Avenue and the East Campus driveway concluded that the signal was warranted, would facilitate pedestrian movements at the intersection and diminish the impact of the proposed East Campus development on other intersections by distributing pedestrian crossings along Nebraska Avenue to three locations, and could operate under actuated or pre-timed operations with an acceptable level of delay and impact to nearby intersections. (Ex. 50, 350.)
144. Vehicular access to the East Campus will be provided via a primary entrance on New Mexico Avenue, east of its intersection with Nebraska Avenue, and via the existing vehicular ingress/egress on Nebraska Avenue, which will retain its existing limit of right-in, right-out from Nebraska Avenue. (Ex. 50.)
145. The existing surface parking lot will be removed, except for a portion at the eastern end with space for approximately 200 vehicles. (The University described the remaining surface parking lot as an area "reserved for a future signature academic building, similar to the Katzen Arts Center" sometime after 2020). An underground garage, providing approximately 150 parking spaces as well as loading facilities, will be constructed with access from New Mexico Avenue. The development will result in a net loss of approximately 500 parking spaces. (Ex. 8, 50.)

146. Facilities for bicycle parking will be provided throughout the East Campus, including some in the residence halls and the below-grade garage. The facilities will provide for bicycle sharing and long-term storage as well as short-term parking. (Ex. 8.)
147. The Applicant asserted that development of the proposed East Campus will not cause objectionable conditions related to noise, citing the orientation of the residential buildings so that windows would not face the adjoining residential community, the location of Building 6 to help block any noise from activities occurring on the courtyards, and design features such as the lack of a direct entrance to the ground floor of Building 6 from the east as well as the absence of balconies or terraces on the eastern elevation. (Ex. 8.)
148. Any event held on the East Campus that proposed to use sound amplification equipment will be required to comply with the University's "sound amplification policy." The policy prohibits certain types of sound amplification and restricts its use under other circumstances. Violations are enforced by the University's department of public safety and may be referred to its office on student conduct and conflict resolution services. (Ex. 440.)
149. The University submitted an environmental noise study prepared for the proposed East Campus by an expert in acoustics. The study investigated potential noise sources from the planned development and their potential impacts on the adjoining Westover Place neighborhood. Its conclusions included that:
  - (a) The East Campus development is planned so that the expected sources of noise from activity in the outdoor courtyard areas and from open windows of student residences will not be located adjacent to the existing residential properties at the southeast property boundary. The orientations of the residential buildings, and their distance from the neighboring residences, will reduce the noise levels and potential noise disturbances to those residences;
  - (b) The planned academic/administrative buildings at the eastern end of the site will block the line of sight, and thus the direct noise path, between the location of most sources of noise (courtyards and building faces) and most receiver locations in the residential neighborhood;
  - (c) The most commonly expected sources of noise (groups of people talking and music played at a reasonable level) will be half to one quarter as loud as the background noise level at most locations along the southern property line. At all locations, predicted noise levels of typical voice and music loudness are quieter than the levels allowed by District of Columbia noise regulations; and

(d) Loud “party” music might exceed levels permitted by noise regulations, depending on the receiver location and if the noise source was located in a room with open windows, but would likely be controlled by the University staff to avoid disruption to other building occupants. With closed windows, all resulting noise levels would be noticeably quieter and less than permitted by the noise regulations.

(Ex. 536.)

150. The Applicant asserted that development of the proposed East Campus will not cause objectionable conditions related to traffic. The University acknowledged that changes in pedestrian and vehicular trips will occur as a result of the East Campus development, but contended that no unacceptable conditions would arise, based on an analysis of future capacity that compared traffic models both with and without the development of the 2011 Campus Plan. (Ex. 8.)
151. The University will implement transportation demand management measures to mitigate traffic impacts of the East Campus development. In addition to provision of facilities to encourage use of bicycles, the University will accommodate a car-sharing service and will provide information on transportation options to students. (Ex. 8.)
152. The Applicant asserted that development of the proposed East Campus will not cause objectionable conditions related to number of students, citing the design and locations of the planned buildings, the creation and maintenance of a physical and landscaped buffer between the East Campus buildings and the adjoining townhouse residences, and the University’s residential life policies. Pursuant to those policies, students are required to sign a “housing and residence life” license agreement that sets expectations and guidelines for appropriate student behavior, and supplements the student code of conduct. Each residential building will include approximately 24 residential life staff who will enforce the guidelines. (Ex. 8.)
153. The University asserted that the development of the East Campus will not create objectionable impacts due to lighting, since no light from buildings, walkways, or the parking lot will project onto neighboring properties. The buildings will not have exterior lights except as required by the applicable building codes, and no lights will be installed in the landscaped buffer area adjacent to the Westover Place residences. (Ex. 440.)
154. The Applicant proposed a construction management plan, which specified actions the University will undertake to mitigate any adverse impact on adjacent properties resulting from construction activity related to the development of the East Campus. The plan addressed pre- and post-construction surveys of the adjacent Westover Place properties, a pre-construction community meeting to coordinate planned construction activities, an on-

site construction representative, the University's responsibility for damage to adjacent properties, hours of construction, and site management. (Ex. 440.)

155. DDOT testified that the additional pedestrian activity expected at the East Campus will be accommodated by existing signal timing on Nebraska Avenue, where currently "a significant number of pedestrians" cross at both Ward Circle and New Mexico Avenue. According to DDOT, the additional pedestrian crossings at those intersections and at a new crosswalk at the proposed driveway on Nebraska Avenue would not negatively impact the system in part because the pedestrian crossings would be spread over three intersections. The proposed mid-block signal would further disperse pedestrian traffic, improve safety, and, if correctly timed, would have a "minimal to no effect on traffic." (Ex. 229, 475.)
156. OP testified that "[s]tudent housing, in and of itself, is not an objectionable land use" for the East Campus site, noting that the R-5-A and R-5-B Zone Districts permit a variety of residential and institutional uses so long as they are compatible with adjoining residential uses. However, OP concluded that "the number of students on this site has the potential to create objectionable conditions for neighboring properties, given their low-density character," noting that the University proposed student residential buildings five or six stories in height "as compared to the adjacent 3-story single-family residences" and citing a designation of the adjacent residential community in the Comprehensive Plan as a "neighborhood conservation area," which calls for "modest changes in scale and density as a result of infill development and maintenance of the existing scale and architectural character." (Ex. 238.)
157. OP recommended a reduction in the student housing provided at the East Campus to 400 beds, with additional housing located on the Main Campus as needed. OP's recommended limit of 400 student beds on the East Campus would make "its percentage of the existing student housing inventory ... 9.9," bringing "the ratio of student housing beds to land area on the East Campus to a level commensurate with its relationship to the larger campus." OP acknowledged that the ratio of "beds to land area" would be higher at the core of the Main Campus and at the Nebraska Hall site, but asserted that those concentrations of student housing would be appropriate at those locations and contexts. (Ex. 238.)
158. With regard to the East Campus, OP also recommended that the Applicant provide a buffer, at least 65 feet wide and landscaped with evergreen and deciduous trees, along the eastern property line adjacent to Westover Place, with the nonresidential buildings at two and three stories permitted within the next 40 feet, so that the residential uses would be at least 125 feet from the eastern property line adjacent to Westover Place. OP recommended installation of a fence to preclude recreational use of the buffer area by students. (Ex. 238.)

159. With regard to the provision of retail space on the East Campus, OP recommended allowing only the 3,020 square feet proposed by the Applicant within the visitor center (Building 5), with a requirement that the University must submit a comprehensive retail plan as an amendment to the Campus Plan to identify the types of retail proposed and how the retail use would be integral to the campus use and not in conflict with the Comprehensive Plan. OP acknowledged that “[r]etail uses have been accepted as part of campus plans as customarily accessory uses to a university operation,” but asserted that the Applicant had provided “insufficient detail to understand the retail program proposed for the East Campus.” (The Applicant initially proposed to provide more than 17,000 square feet of retail space on the East Campus.) OP asserted that the “amount of retail development proposed for the East Campus would introduce land uses that are not anticipated on the site, called for on the Comprehensive Plan, or allowed as a matter-of-right under zoning.” OP encouraged the University “to consider concentrating retail uses in the existing commercial center” on New Mexico Avenue and recommended that retail space on East Campus should be limited to the 3,020 square feet proposed for the visitor center until “a comprehensive retail strategy” is approved as part of the Campus Plan. (Ex. 238.)
160. OP noted that the Applicant’s proposal would significantly increase the intensity of use on the East Campus, which could potentially create objectionable conditions for neighboring uses with regard to noise. OP recognized that some aspects of the proposal would help manage noise, such as the location of academic and administrative uses closest to the neighboring residential community, the absence of mechanical equipment on the roofs of the administrative buildings, the location of student residences closer to Nebraska Avenue, and the prohibition against freshman students living in East Campus residences. Nonetheless, OP noted that communities surrounding the campus, especially in Westover Place, “are concerned about the potential noise impacts of having 590 residential units adjacent to their west property line.” OP recommended that the University consider use of inoperable windows and “shifting the residential buildings further from the neighboring residences to help mitigate potential noise impacts.” (Ex. 238.)
161. ANC 3D opposed further processing of the University’s proposal for the East Campus, alleging that the project would be inconsistent with the standard of approval set forth in the Zoning Regulations as it is a development likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions, and that the University has “failed to mitigate conditions that would make housing at the site objectionable.” ANC 3D also recommended a number of conditions for development of the East Campus pertaining to setbacks, building heights, and fencing, among other things. (Ex. 45, 204.)

162. ANC 3D objected that, by developing the parking lot site, the University would be “eliminating an already-existing significant buffer with the community,” and argued that the utility of the “buffer buildings” proposed by the University would be limited because of their height and to the lack of any agreement ensuring that the buffer buildings would be built before construction of the new housing. ANC 3D advocated a buffer larger than the 65 feet proposed by the University. (Ex. 590.)
163. ANC 3D opposed the Applicant’s proposal to install a pedestrian signal mid-block on Nebraska Avenue between New Mexico Avenue and Ward Circle. According to the ANC, the mid-block signal would “further exacerbate existing traffic congestion on Nebraska Avenue” and in fact demonstrated “the inherent problem with AU’s housing plan: the new student housing will generate such an increase in pedestrian traffic in an already congested and unsafe corridor as to create more opportunities for pedestrian-vehicle conflicts, exacerbate existing congestion, and pose added dangers to public safety.” (Ex. 204.)
164. ANC 3D testified that student-serving retail would be inconsistent with the current land uses for the Nebraska Avenue corridor, and would add to “an already congested and hazardous traffic corridor.” According to ANC 3D, the elimination of retail at the East Campus development would help mitigate traffic impacts associated with additional pedestrian crossings that will result from the housing and academic uses on the East Campus. (Ex. 45, 204, 590.)
165. ANC 3D recommended a condition specifying that the East Campus may not be used for “conferences and meetings, including space designated for residential facilities and meeting or other undesignated ‘activity’ space.” According to ANC 3D, “[m]eeting space on the East Campus should either be eliminated or located underground to minimize the visual and noise impacts on neighbors for this use of the site.” (Ex. 45, 204.)
166. ANC 3D recommended that the East Campus should “include outdoor recreational space for student-residents living on the site” and that the University should “take other steps – in consultation with neighboring residents – to prevent use of the Horace Mann recreational space by AU students in order to preserve a quality neighborhood amenity for neighborhood residents and their young children.” (Ex. 204.)
167. According to ANC 3D, no amplified sound should be allowed at the East Campus location “under any circumstances,” given its proximity to residential property. (Ex. 590.)
168. According to ANC 3D, the student residences on the East Campus “should be used solely for university student housing and not for use by outside organizations.” (Ex. 45.) ANC

3D also advocated that “[a]ny housing on the East Campus site should be used only by juniors and seniors because of its proximity to residential property at Westover Place and in Wesley Heights – with the assumption and expectation that older students will be more mature.” In addition, “[a]ny dorms built on the East Campus should be routinely patrolled by AU Campus Security – both the grounds of the site as well as the interior of the dorms – and AU should be required to provide reports to neighbors on a quarterly basis on its patrolling activities.” (Ex. 204.)

169. ANC 3D expressed support for the Building 5 on the East Campus, provided that the building would be no higher than 54 feet and would not contain any retail. (Ex. 45.)
170. ANC 3E described the East Campus as “an appropriate site for development, including student housing on the order AU is proposing,” noting that the provision of “adequate and attractive undergraduate housing is an important goal for the University, but also serves the interest of the wider community.” ANC 3E did not concur with OP’s recommendation to limit the number of beds on the East Campus to 400 or the analysis underlying OP’s recommended limit, and asserted instead that the likely impact on neighbors could be measured using “the adequacy of the relevant buffers and the impact on traffic and pedestrian movement flowing from the proposed use compared to other potential uses.” According to ANC 3E, “the University has taken substantial steps to provide an adequate buffer with the adjacent Westover Place condominiums,” and the traffic and pedestrian issues “can be managed with the amount of density proposed by the University,” including the planned 590 beds. (Ex. 378, 496.)
171. ANC 3E also supported the provision of retail space on New Mexico and Nebraska Avenues “as potential vehicles to serve the community and enliven the street,” and opposed a reduction in the amount of retail proposed by the Applicant, because “the dearth of good retail options around Ward Circle drives additional traffic and congestion out of the neighborhood as students and long term residents alike leave in search of restaurants and better retail.” ANC 3E asserted that the University should develop a retail plan for the East Campus with input from the community, and that the plan should be based on the expectation of providing 17,020 square feet of retail space on the site. ANC 3E did not agree with the 3,020 square foot limit on retail space recommended by OP. (Ex. 378, 496.)
172. SVWHCA objected that the University “does not need to construct” the East Campus, and should instead “focus largely on expanding sites where housing already exists or site in the campus interior.” SVWHCA contended that the East Campus development would create objectionable conditions for surrounding neighbors, particularly due to noise associated with student residences; the location of student housing in proximity to an existing wine and liquor store; the lack of outdoor recreation space, which would lead to conflicts with students over the use of the field and grounds at the nearby Horace Mann

elementary school; the “objectionable heights and densities” of the proposed student residential buildings adjacent to low-density residential neighborhoods; and “the location of such a large number of residents at the periphery of AU’s campus and at the border of Wesley Heights,” especially “in the context of an unchecked expansion on the overall size of AU’s operation,” leading “AU to acquire and use for university purposes the scarce commercial properties and even residential properties in Wesley Heights.” (Ex. 152.)

173. SVAHCA also asserted that development of the East Campus would create substantial objectionable conditions from increased risk to pedestrians, especially in light of the frequency of “risky pedestrian behavior” currently by people crossing Nebraska Avenue from the parking lot and the expected increases in pedestrian traffic volumes after completion of student residences at the East Campus. According to SVAHCA, “substantial traffic congestion will be the inevitable result” of the increased frequency of vehicular conflicts with pedestrians. (Ex. 152.)
174. NLC and WPHC contended that the “East Campus dormitories would create particular hardship for the adjacent community of Westover Place,” where 33 of the abutting 149 townhouses are adjacent to the AU boundary and the “residents of these townhouses would see the proposed development from their patios, living room windows and bedrooms.” According to NLC/WPHC, the University’s proposed “setbacks and buffers are entirely unacceptable to neighbors who would look at the ‘buffer’ buildings proposed by AU and the five and six story dormitory buildings,” in part because “AU’s reconfiguration of the East Campus has not mitigated the many adverse effects of housing almost 600 undergraduates in close proximity to Westover Place.” (Ex. 157.)
175. According to NLC/WPHC, the Applicant’s plan for the East Campus “is totally inconsistent with the characteristics of the existing neighborhoods of Westover and Wesley Heights,” because the University site “would have much greater density, taller buildings, and larger structures.” NLC/WPHC contend that these “inconsistencies create many of the objectionable conditions associated with AU’s application” because “AU’s buildings are too tall for the community in which they would sit,” would not “fit into the architectural landscape of buildings in the immediate vicinity of East Campus,” and would “exceed the heights permitted as of right in an R-5-A zone.” (Ex. 157.)
176. NLC/WPHC also objected to the proposed uses of the East Campus, contending that the “character of the neighboring properties will be adversely affected by usage of the site for the housing of 590 undergraduate students and for retail activities,” given the “dramatically different” lifestyles of AU students and the “nearby permanent residents.” According to NLC/WPHC, the objectionable conditions arising from student behavior cannot be prevented by “AU’s code of conduct, security force, [or] student policies,” and therefore AU’s decision to “put these uses on the edge of campus where their effects

cannot be adequately mitigated,” instead of in the center of its campus, will give rise to objectionable conditions for neighboring communities. (Ex. 157.)

177. NLC/WPHC asserted that the Applicant had not adequately disclosed its plans for the proposed retail space at the East Campus. NLC/WPHC opposed the inclusion of restaurants and shops, which according to NLC/WPHC “would not be consistent with the R-5-A district and would be unprecedented along the entire length of Nebraska Avenue” in addition to creating a likelihood of “objectionable conditions relating to odors, rodents, increased pedestrian traffic, parking constraints, and increased vehicular traffic.” (Ex. 157.)
178. NLC/WPHC asserted that the Applicant’s proposed “buffer buildings” would not be “adequate ‘buffers’ for the dense development of East Campus or the objectionable conditions relating to AU’s proposed uses of East Campus,” noting that the “existing wall between East Campus and Westover is 4½ feet from the residents’ patios and as close as 15 feet to the Westover townhomes themselves.” According to NLC/WPHC, the buffer buildings would not “eliminate noise from open dormitory windows, prevent students from using the buffer strip of land immediately adjacent to Westover, or adequately obscure the high-rise buildings and their evening lights from view by Westover residents.” Rather, the buffer buildings would be located within 40 feet of the Westover property line, would “create a long, institutional barricade for hundreds of feet,” would not “fit the residential character of Westover” or be “softened visually by an adequate landscaped buffer” but would “generate their own noise from mechanical equipment and usage” and “emit light from their own windows that will face the Westover community.” (Ex. 157.)
179. WPHC proposed a series of “proposed mitigations for objectionable conditions” arising from the development of the East Campus. While continuing to advocate rejection of the Applicant’s proposal, WPHC urged the Commission to direct the Applicant to reach an agreement with the neighborhoods to comport with all of the guidelines provided by WPHC, then resubmit a new plan for development of the East Campus for further processing. The mitigation measures proposed by WPHC addressed the “massive size” of the University’s proposal, which WPHC asserted would create “density out of character with the surrounding residential neighborhood”; the Applicant’s proposed 40-foot buffer between the property line and the administrative buildings, which would, according to WPHC, “create privacy, noise, light and other objectionable conditions as the University pushes up against the surrounding single family neighborhoods” and therefore should be at least 100 feet wide along the full length of the property line, fenced on all sides, and landscaped so as to “provide an effective sight line barrier between the campus and the residences”; noise resulting from “[u]ndefined usage and occupancy levels of the buffer buildings”; provision of an insufficient number of parking spaces “for the massive amount of development, commuter traffic, and overflow from the Tenley

Law School”; creation of “pedestrian safety issues”; and inclusion of “excessive retail” space in a zone where retail use is not permitted as a matter of right. According to WPHC, any dormitories on the East Campus should not exceed three stories in height, “consistent with the as-of-right height restrictions for an R-5-A zone and compatible with the existing heights of the adjacent townhomes in Westover.” (Ex. 572, 594.)

B) Nebraska Hall Addition.

180. The University proposed to construct an addition to Nebraska Hall, a student residence with 115 beds, to provide 150 additional beds. The addition will be similar to the existing three-story residence hall with respect to bulk, height, and appearance. (Ex. 8, 50.)
181. The existing Nebraska Hall building is set back approximately 104 feet from Nebraska Avenue in front and 45 feet from 44<sup>th</sup> Street at the rear. A driveway and circular drop-off area are located in front, and a 25-space parking lot is located at the rear of the building. The addition will be constructed on the northern end of Nebraska Hall, on the site of the parking lot. The addition will be set back approximately 97 feet from Nebraska Avenue, and will maintain the 45-foot setback from 44<sup>th</sup> Street of the existing building. (Ex. 8.)
182. The addition will contain, in addition to residences for students and residential advisors, offices for the residential life staff, a faculty apartment, and a multifunction space able to accommodate 40 people. The University will make the multifunction space available for meetings of the Ft. Gaines Citizens Association. (Ex. 8.)
183. Mechanical equipment for the addition will be located in the “grade level” of the building, which is below grade as viewed from Nebraska Avenue. No rooftop mechanical equipment or antennas will be located on the roof of the addition. (Ex. 8.)
184. An existing fence will be expanded and increased in height, and landscaping will be developed in consultation with nearby residents to buffer the building from the residential areas to the west. (Ex. 8.)
185. The Applicant asserted that development of the Nebraska Hall addition will not cause adverse impacts related to noise, because all student access to the addition will be made from the Nebraska Avenue frontage, no access to the multipurpose space will be possible from the rear of the building adjacent to 44<sup>th</sup> Street, and the landscaping and fence will be extended for the length of the enlarged building. (Ex. 8.)
186. The Applicant asserted that development of the Nebraska Hall addition will not cause adverse impacts related to traffic or parking, because vehicular access to the property will not change, and deliveries will continue to be made through the main entry or the central

entry on the east side. The Katzen Arts Center garage, adjacent to Nebraska Hall, has sufficient capacity to accept vehicles that formerly parked on the 25-space lot. (Ex. 8.)

187. The Applicant asserted that development of the Nebraska Hall addition will not cause adverse impacts related to number of students or employees, citing the operation of a student residence at the site since 2006 with few, if any, complaints, and the landscaped buffer area between the expanded Nebraska Hall and adjacent residential properties. (Ex. 8.)
188. OP concluded that the proposed Nebraska Hall addition would not likely create adverse impacts or objectionable conditions within the neighboring community with regard to noise, traffic, parking, or the number of students or faculty. OP noted that potential noise impacts will be mitigated by the distance of the addition from neighboring uses as well as by its the scale and size; the removal of 26 parking spaces, and the addition of bicycle facilities, would likely reduce vehicle trips to the site; and the number of students likely would not cause adverse impacts because the site is currently used for student housing and the measures proposed by the Applicant, such as enforcement of the student code of conduct, site fencing and landscaping, and construction management, would mitigate any potential objectionable conditions. (Ex. 238.)
189. ANC 3D expressed “no objections to the expansion of Nebraska Hall to add 120 housing beds,”<sup>3</sup> and “applaud[ed] AU for its willingness to fully engage the Ft. Gaines neighbors and address their concerns.” (Ex. 45, 204.)
190. ANC 3E recommended approval of the Nebraska Hall addition, stating that the project “will strengthen the University with no significant impact on nearby neighborhoods.” (Ex. 378, 496.)
191. By letter dated July 11, 2011, the Fort Gaines Citizens Association reported its vote, at a meeting in November 2010, “to take no exceptions with the Nebraska Hall extension Campus Plan proposal as agreed upon with the University.” The association was also indicated its support for the University’s subsequent proposal to increase the number of student rooms within the planned design. (Ex. 446.)

**C) Mary Graydon Center Addition**

192. The University proposed to construct an addition to the south end of the student center that will add 20,000 square feet of dining and activity space. The Mary Graydon Center,

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<sup>3</sup> The Applicant originally projected that the Nebraska Hall addition would provide 120 new beds but later revised its proposal after discerning that 150 beds could be accommodated in the planned space. ANC 3D did not revise its recommendation to express any opposition to the greater number of beds anticipated in the project.

which contains activity space, dining facilities, and retail services, is located in the center of the Main Campus adjacent to the central quad, and is surrounded by university uses, primarily academic, administrative, and athletic facilities. The planned addition will provide additional office and support space, dining facilities, and meeting and event space in a terrace level and three upper levels. (Ex. 8, 238.)

193. The Applicant asserted that development of the addition to the Mary Graydon Center will not cause adverse impacts related to number of noise, traffic, parking, or number of students or employees, citing the proposed use of the addition, its location internal to the campus, its lack of impact on traffic or parking, and that the addition will not add any students, faculty, or staff. (Ex. 8.)
194. OP concluded that the proposed Mary Graydon addition would not likely have any adverse impacts with regard to noise, traffic, the number of students, or other objectionable conditions, noting that the addition will be “located at the center of the Main Campus, well buffered from nearby residential uses” and “would not result in additional staff, faculty, or students or change existing traffic patterns or parking facilities.” (Ex. 238.)
195. ANC 3D expressed support for the addition to the Mary Graydon Center as proposed by the University. (Ex. 45, 204.)
196. ANC 3E recommended approval of the proposed addition to the Mary Graydon Center, stating that the project “will strengthen the University with no significant impact on nearby neighborhoods.” (Ex. 378, 496.)

#### Comprehensive Plan

197. The University is located in the Institutional Land Use category on the Future Land Use Map of the Comprehensive Plan, and is designated as an Institutional site on the Generalized Policy Map of the Comprehensive Plan.
198. The Applicant asserted that the proposed Campus Plan, including the planned new developments, is consistent with the map designations and satisfies many of the goals enumerated in the District Elements of the Comprehensive Plan. The University cited several policies set forth in the Land Use Element as consistent with the proposed Campus Plan, including policies that recognize the importance of universities, the need for institutions and neighborhoods to work proactively to address issues such as traffic and facility expansion, and the benefits of development near Metrorail stations, with site planning to encourage the use of public transit and infill development that will improve the character of the neighborhood. The University also asserted that the 2011 Plan was not inconsistent with the Comprehensive Plan, and would in fact advance numerous

policies, including those related to transportation, economic development, education, and urban design as well as with elements related to the Rock Creek West Area. The Applicant noted that, while areas surrounding the campus are designated neighborhood conservation areas on the Generalized Policy Map, the campus itself is designated institutional. According to the Applicant, “[n]othing in the Comprehensive Plan restricts development in an institutional area just because it is adjacent to a neighborhood conservation area.” (Ex. 8, 577.)

199. OP identified a number of policies of the Comprehensive Plan as relevant to the University’s proposed 2011 Campus Plan. They include policies in the Land Use element pertaining to institutional uses and attendant issues for nearby residential neighborhoods, policies in the Education element relating to student housing and the transportation impacts of universities, and policies in the Rock Creek West element addressing the conservation of neighborhoods and neighborhood commercial centers, the management of institutional land uses and transportation demand, congestion management measures, bicycle facilities, and historic resources. (Ex. 238.)
200. In its report dated June 2, 2011, OP indicated that “[o]verall, most features of the proposed campus plan are not inconsistent with many policies and objectives of the Comprehensive Plan.” However, OP concluded that “the campus plan contains some elements, including the proposed location and amount of retail, siting of outdoor athletic facilities, and amount of student housing in proximity to existing low density residential areas, that are inconsistent with the policies of the Comprehensive Plan,” including “minimizing its impact on surrounding residential communities, expanding outdoor university facilities in a manner without creating adverse impacts, and supporting neighborhood conservation.” (Ex. 238.)
201. ANC 3D asserted that the Applicant’s proposed campus plan was inconsistent with numerous provisions of the Comprehensive Plan, including policies in the Land Use element pertaining to conservation of single-family neighborhoods, neighborhood beautification, mitigation of impacts of commercial development, and institutional uses, as well as policies in the Transportation, Environmental Protection, Urban Design, Educational Facilities, and Rock Creek West elements. (Ex. 470.)
202. NLC and WPHC asserted that “the Comprehensive Plan provides consistent guidance regarding the importance of preserving and protecting the character of residential communities in the Rock Creek West District.” Noting that “[a]lthough colleges are an important asset in the District of Columbia,” NLC/WPHC contended that “the city’s residential communities are another valuable asset” and the “interests of universities should not supersede the often competing and long-established interests of stable residential neighborhoods.” (Ex. 157.)

Lighting Plan

203. As part of the 2011 Campus Plan, the University proposed to continue to implement the lighting plan adopted as part of the 2001 Campus Plan. Elements of the lighting plan include: (a) all new outdoor lighting fixtures are located and installed so as to avoid the extension of spotlights beyond the boundaries of the campus; (b) all lighting fixtures installed inside new campus buildings are equipped with motion sensors that turn lights off when not in use, except for fixtures installed in common areas or in other locations where constant lighting is needed for security or other reasons; (c) spotlights and outdoor lighting, both new and existing, are directed inward, downward, and away from the campus perimeter, and shielded when necessary to avoid lighting on the outside of the perimeter, to avoid objectionable impacts on neighboring property; and (d) energy-efficient lighting is used to illuminate roadways, parking lots, pedestrian walkways, and building exits to achieve security requirements. (Ex. 8, 440.)
204. ANC 3D recommended inclusion of a condition, identical to that adopted in the prior campus plan, relating to the types and characteristics of lighting fixtures used on campus. (Ex. 45, 204.)

Landscaping and Stormwater Management Plan

205. ANC 3D recommended inclusion of a condition requiring the Applicant to “consult closely with neighbors in the development of a Landscape Plan to address screening needs and the upgrading of plantings, especially along the campus periphery, including the East Campus, and a stormwater management plan.” (Ex. 45, 204.)
206. Robert Herzstein testified that the Applicant was “delinquent in maintaining landscape screening,” causing objectionable visual impacts on neighbors, and was attempting to avoid a landscaping responsibility in the future. According to Mr. Herzstein, the University “must be required to consult closely with neighbors on specific screening needs and to upgrade its plantings where needed to avoid adverse visual impacts.” (Ex. 155, 513.)

Liaison Committee

207. As part of the approved 2001 Campus Plan, the University was required to work with community representatives to form a Liaison Committee for the purpose of fostering consistent communication between the University and the surrounding neighborhoods, discussing issues of mutual interest, and proposing solutions to problems that exist or arise in implementing the approved campus plan. (*See* Order No. 949, Condition No. 6.)

208. In the 2011 Campus Plan, the Applicant proposed certain modifications intended to enhance the composition, structure, purpose, and leadership of the liaison committee. As proposed by the Applicant, the newly enhanced “community liaison committee” (“CLC”) will be led by the University’s vice president of campus life, the chief student affairs officer at the university and one of seven members of the president’s cabinet, who provides senior executive leadership for 15 departments in the Office of Campus Life, including student conduct, and has broad decision-making authority within the University. In addition to its representatives, the University will invite community groups to become members of the committee, including representatives of ANCs 3D, 3E, and 3F and 10 community groups.<sup>4</sup> Meetings will be scheduled by the University, although any member of the committee may call a meeting at any time. The University will contact community representatives in advance of each meeting for input in formulating the meeting agendas. At each meeting, the University will provide reports and updates pertaining to matters such as transportation demand management programs, off-campus parking enforcement, off-campus student behavior, sound management on the athletic fields, construction management and mitigation of adverse impacts on adjacent properties, and campus events that neighbors may attend. (Ex. 602, 608.)
209. In the event of a dispute in which the University and a majority of the community representatives cannot reach agreement within one month, the University will participate in alternative dispute resolution and engage a third-party mediator at the University’s expense. Community members of the liaison committee will participate in the choice of a mediator, whose selection will require agreement by a majority of the committee members. (Ex. 608.)
210. The University will also conduct an annual town hall meeting, chaired by the University president and open to all neighbors, to discuss issues of interest to neighboring communities. The University will invite representatives from ANCs 3D, 3E, and 3F to co-chair the annual meeting. (Ex. 608.)
211. NLC and WPHC claimed that “[i]n practice, the liaison committee has not been terribly effective.” Nonetheless, NLC/WPHC advocated continuation of the committee, which “makes University officials pay some attention to neighbors and … provides some information to neighbors from time to time.” (Ex. 157.)

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<sup>4</sup> The Applicant specified the community groups as: Neighbors for a Livable Community, Spring Valley-Wesley Heights Citizens Association, Tenley Campus Neighbors Association, Tenley Neighbors Association, the Westover Place Townhouse Association, Embassy Park Neighbors Association, Ft. Gaines Citizens Association, Greenbriar Condominium, McLean Gardens, and Sutton Place Condominiums.

Conference Use of University Facilities

212. The 2001 Campus Plan included a condition specifying that campus facilities built for instructional purposes (such as classrooms, laboratories, and conference rooms) could, from time to time, be used for conferences, but any purpose-built conference facility that the University proposed to build on campus would require amendment of the Campus Plan and specific approval of the conference-facility use through the special exception process. (*See* Order No. 949, Condition No. 5) The University has proposed to modify this condition to clarify that residential facilities may also be used for conferences. (*See* Condition No. 6 of this Order.)
213. The Applicant described the types of conferences and other public programs typically provided on the campus, and indicated their importance to the University. (Ex. 8.)
214. NLC and WPHC asserted that “[a]ny use of campus facilities for conferences should be subject to reasonable limits as to character, frequency, attendance, and location.” NLC/WPHC opposed use of the East Campus for large conferences, citing its close proximity to residential neighborhoods. (Ex. 157.)

Notice of Permit Applications

215. In 1917-1918 and again in 1942-1945, the University made the Main Campus available to the federal government. (Ex. 8.) In Finding of Fact No. 7 of Zoning Commission Order No. 949, which approved the 2001 Campus Plan, the Commission noted that in the mid-1990s, the University began working with the Army Corps of Engineers to test, remove, and remediate any adverse environmental conditions that exist in the Spring Valley neighborhood, including those associated with arsenic. According to Finding of Fact No. 8, the Department of Health (“DOH”) was consulted on the proposed Campus Plan in light of the ongoing project. DOH requested that, as a condition of approval of the 2001 Campus Plan, the Applicant should be required to notify DOH, the Corps of Engineers, and the U.S. Environmental Protection Agency when filing a permit application for any building, roadwork, or site work. The Commission agreed to that request. Since that time, the District of Columbia Council created a Department of the Environment and transferred the Department of Health’s environmental responsibilities to the new agency.
216. ANC 3D recommended inclusion of an updated condition, adopted in the prior campus plan, that would require the Applicant to provide notice to the District Department of the Environment when the University files a permit application for ground clearance, excavation, or other major construction that would implicate remedial work performed at or around the campus by the U.S. Army Corps of Engineers. (Ex. 45.)

217. NLC and WPHC also supported “a condition relating to the University’s coordination with the Corps of Engineers and U.S. Environmental Protection Agency.” (Ex. 157.)
218. In this Order, the Commission adopts Condition No. 11, regarding the provision of notice by the University before submitting a permit application.

**Update in Further Processing Applications**

219. The 2001 Campus Plan included a condition requiring the University to submit certain information, including an updated traffic analysis and reports on the supply of on-campus housing and numbers of students, in each application for further processing submitted pursuant to the approved plan. (*See* Order No. 949, Condition No. 9.)
220. NLC and WPHC supported continuation of the 2001 condition relating to further processing applications with the addition of a provision requiring the University to disclose the number of full-time undergraduate students actually housed by the University at the time of the application along with a review of the University’s compliance with the plan and its conditions, and “any other objectionable conditions present at that time.” (Ex. 157.)
221. In this Order, the Commission adopts Condition No. 10 regarding the submission of information in each application for further processing submitted pursuant to the approved plan.

**Off-Campus Properties**

222. ANC 3D made several recommendations related to the University’s use of off-campus properties. ANC 3D urged the Commission to adopt a condition requiring that “any further acquisitions of property by AU for university purposes in zip codes 20007 and 20016 should be treated as functionally equivalent to an amendment to the campus plan requiring approval by the Zoning Commission.” The ANC recommended another condition requiring the University “to maintain all single family residential property it owns as single family residences and agree not to rent these single family homes as group homes to students, for use by a fraternity or sorority, or as university faculty meeting centers.” ANC 3D recommended retention of the University’s existing caps of 10,600 students and 2,200 employees because of its acquisitions of commercial property in the neighborhood for university purposes; according to ANC 3D, “this ‘commercial’ loophole … allows unlimited growth. Without some measures that require AU to count all students and staff in the cap, even those enrolled in a program or attending classes in AU-owned or rented commercially-zoned space in the neighborhood, AU will have no limits on its growth potential – even with a cap.” (Ex. 45, 204, 470.)

223. SVWHCA asserted that the University's ownership and use of commercial properties impaired their use for neighborhood-serving businesses, citing especially AU's acquisition of space formerly occupied by a grocery store that was then partly leased to "a pizza restaurant that is aimed at the AU student population, not neighborhood residents" and partly converted into a mail-sorting facility serving the University. SVWHCA urged adoption of a condition prohibiting AU from purchasing new off-campus properties during the term of the campus plan unless each prospective purchase and use is specifically identified and evaluated in connection with the rest of AU's campus plan with respect to the effects that AU's ownership would have on the surrounding neighborhoods, or a condition precluding use of off-campus property owned or purchased by AU for university purposes as opposed to retail businesses. (Ex. 152.)
224. NLC and WPHC argued that the University's proposed campus plan should provide additional information about the Applicant's intentions with respect to its off-campus properties, especially the current site of the law school on Massachusetts Avenue and commercial buildings on New Mexico Avenue. According to NLC/WPHC, the Applicant should be required to identify its planned uses for the off-campus properties so that "the effect on the campus and neighborhoods can be properly evaluated during the campus planning process." (Ex. 157.)

#### Dispute Resolution

225. Mr. Herzstein also advocated implementation of "[s]ome mechanism ... to resolve disputes in the event neighbors assert that the University is not complying with the Order [approving the 2011 Campus Plan], such as "a joint dispute resolution committee, with AU and neighbor representatives, and an independent party if needed, to resolve compliance controversies with binding determinations." (Ex. 513.)

#### Outdoor Advertising

226. ANC 3D urged the Commission "to impose limits on AU that would prevent it from displaying electronic, digital, or other forms of outdoor advertising on buildings that front on major avenues, such as Massachusetts or Nebraska Avenues. (Ex. 45.)

### **CONCLUSIONS OF LAW**

The Applicant seeks special exception approval, pursuant to Sections 210 and 3104 of the Zoning Regulations, of an updated campus plan for a period of 10 years as well as further processing approval of three projects in accordance with the approved plan.

A university use is permitted as a special exception in a Residence zone. 11 DCMR § 210.1. Where, as here, a use was lawfully established prior to the use becoming subject to special

exception review, “any extension or enlargement of that use shall require special exception approval.” (11 DCMR § 3104.)

Subsection 3104.1 of Title 11 provides the general standard for granting a special exception, which is that the special exception “will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps, subject in each case to the special conditions specified.” Subsection 210.2 further requires that a 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.

In addition, § 210.4 requires that:

As a prerequisite to requesting a special exception for each college or university use, the applicant shall have submitted to the Commission for its approval a plan for developing the campus as a whole, showing the location, height, and bulk, where appropriate, of all present and proposed improvements ....

Effective December 8, 2000, the Zoning Commission took on the responsibility to hear and decide all applications for special exception approval of a campus development plan; the amendment of a campus development plan; the further processing of an approved campus development plan to permit the construction and use of a specific building or structure within a campus. (11 DCMR § 3104.4.)

The Commission’s discretion in granting a special exception “is limited to a determination whether the exception sought meets the requirements of the regulation.” *Glenbrook Road Ass’n v. District of Columbia Bd. of Zoning Adjustment*, 605 A.2d 22, 30 (D.C. 1992). The Applicant has the burden of showing, in this case, that its proposal meets the prerequisite enumerated in § 210 as well as satisfying the general standard for special exception approval set forth in § 3104.1. Once the Applicant makes the requisite showing, the Commission “ordinarily must grant [its] application.” *Id.* quoting *Stewart v. District of Columbia Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973).

Based on the findings of fact, the Commission concludes that the Applicant has satisfied the burden of proving that the extended and enlarged university use, as described in the 2011 Campus Plan (including the three further processing requests) and subject to the conditions adopted in this Order, will satisfy the § 210 requirement of a university use that is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions.

Number of students. With regard to the number of students, the Commission concludes that the Applicant’s proposal is not likely to create objectionable conditions because the new enrollment

caps represent relatively small potential increases in the student population over the next 10 years, a significant percentage of the undergraduate students will be housed on campus, and the University enforces a student code of conduct and other measures designed to prevent and address any student misconduct that might occur on- or off-campus. The Commission notes that OP recommended approval of the Applicant's proposed enrollment caps, including its use of a headcount method to determine the number of students who utilize campus facilities.

A separate cap on law students is appropriate in light of the planned relocation of the WCL to the Tenley Campus, but the Commission declines to adopt separate subcaps on undergraduate and graduate students. The Commission was not persuaded that the difference in potential adverse impacts associated with the undergraduate and graduate populations, such as those pertaining to housing and parking, warrant separate caps, especially given the University's strong interest in maintaining flexibility to respond to changes in educational programs and in the job market.

The Commission declines to require the University to adopt a method of counting students for purpose of the enrollment cap that would include "any student who registers for a class at AU – no matter where the class is located" (except for on-line courses), as advocated by ANC 3D, or that would count "any students physically present in nearby off-campus properties" as advocated by the Spring Valley-Wesley Height Citizens Association. The "main purpose of including an enrollment cap on the number of students a college or university can enroll as part of a campus plan is to limit the adverse impact the student population will have on the surrounding community." *Citizens Ass'n of Georgetown v. District of Columbia Bd. of Zoning Adjustment*, 925 A.2d 585, 591 (D.C. 2007). The enrollment cap adopted in a campus plan relates only to the property within the campus plan boundaries, and is not intended as a means of controlling a university's operations elsewhere. The enrollment caps and related definitions of students subject to the caps adopted in this Order properly account for all students using the University's campus facilities that are subject to the campus plan regulations set forth in § 210; *i.e.* university property located in a Residence zone.

**Number of Staff.** Similarly, the Commission concludes that the Applicant's proposed employee cap of 2,900 (including a maximum of 500 employees at the Tenley Campus) is not likely to create objectionable conditions or adversely affect the use of neighboring property. The proposal represents a relatively small potential increase over the next 10 years, a period when the University will continue to implement its transportation demand measures to mitigate any potential adverse impacts related to traffic and parking.

**Student Housing.** The University's program of student housing is an important means of limiting the potential for objectionable conditions related to the number of students. Under the new campus plan, the University will maintain a supply of housing sufficient to make on campus housing available for all full-time freshman and sophomore students and for 67% of all full-time undergraduates beginning with the fall 2016 semester. During the interim period, the University must continue to make on campus housing available to 85% of full-time freshmen and

sophomore students and 59% of its full-time undergraduate students. Because the 67% housing requirement effectively serves as a cap on undergraduate enrollment, the student housing requirement adopted as part of the new plan addresses the recommendation of ANC 3D to implement a cap that limits University growth as a way to ensure that the number of students is not likely to lead to objectionable conditions

In light of the benefits of a significant supply of student housing on campus, the Commission was not persuaded by the concern of ANC 3D that the University's student housing proposal was "excessive," not justified, or likely to lead to objectionable conditions for neighboring residents. ANC 3D did not describe any potential objectionable conditions or adverse impacts, as those terms are used in Zoning Regulations, that would warrant the imposition of conditions limiting the provision of student housing to the interior of the campus, or requiring the provision of 120-foot landscaped buffers with mature trees or tinted windows in student residences to shield neighbors from views of the students' window hangings. The Commission notes, by contrast, that ANC 3E recommended that the University should "house as many students as possible on campus" so as to "reduce car trips" and possibly "the number of shuttle trips necessary to serve off-campus students." Similarly, the Commission was not persuaded by the "alternative framework" submitted by NLC and WPHC. That plan did not take into account important factors such as financial feasibility, the need for changes to roads and infrastructure, the current use of some of the sites identified as potential locations for new student residences, or the University's program requirements, and did not consider the East Campus as an appropriate site for student housing.

**Student Conduct.** The Commission does not find that the 2011 Campus Plan is likely to create objectionable conditions related to student misbehavior. Students living in University-provided housing – i.e. the majority of undergraduates and all full-time freshman and sophomore students – are subject to residence hall regulations that prohibit specified types of disruptive conduct. All students are subject to the code of conduct, which the University has amended to enhance its effectiveness against misbehavior occurring off campus. The Commission is sympathetic to persons who testified or wrote letters describing serious issues that have arisen in the past due to student misconduct, but does not find a systemic problem of objectionable conditions related to student conduct, and instead concludes that the University's measures are appropriate to address student behavior consistent with the scope of the Zoning Regulations. The Commission encourages the University to continue to monitor the effectiveness of its programs implemented to ensure compliance with its expectations for student conduct and to achieve quick, effective resolution of any problems that occur, and to work with the Community Liaison Committee to address any issues that may arise in the future.

The Commission recognizes the concerns expressed by ANCs 3D and 3E with regard to the availability of alcohol on the University's campus. However, the Commission was not persuaded to adopt the proposed conditions recommended by the ANCs, as they are outside the scope of this proceeding. *See President and Directors of Georgetown College v. District of*

*Columbia Bd. of Zoning Adjustment*, 837 A.2d 58 (D.C. 2003) (power to grant special exceptions implicitly encompasses authority to place reasonable conditions on the approval, but order approving campus plan may not usurp university prerogatives by intruding into minutiae of university administration).

**Traffic.** The Commission concludes that approval of the 2011 Campus Plan is not likely to create objectionable conditions related to traffic. The application was supported by a traffic report prepared by the Applicant's traffic experts, which used a methodology acceptable to DDOT and which the Commission found credible notwithstanding the objections raised by the parties in opposition. The University will continue to implement its transportation demand management program approved as part of its last campus plan, with improvements as needed depending on the results of the activities undertaken to monitor the effectiveness of the various TDM measures. The Commission was not persuaded by ANC 3D's unsubstantiated claims that the TDM strategies would not be effective.

The Commission appreciates the suggestion, made by a traffic expert retained by ANC 3D, of a peak-hour trip cap as a means to restrict vehicle trips to the University's campus, but declines to require its adoption in this proceeding. The Applicant proposed an array of measures also designed to limit vehicular trips to the campus, as well as methods to monitor their effectiveness.

**Parking.** The Commission concludes that approval of the 2011 Campus Plan is not likely to create objectionable conditions related to the parking of University-affiliated vehicles on or off campus. The Applicant's proposal to decrease the number of on-campus parking spaces over the term of the Plan is appropriate in light of evidence showing the underutilization of the existing parking supply. The Commission does not agree with SVWHCA that the Applicant's plans for parking are "completely inadequate" for the projected numbers of additional staff and students possible under the new student and staff caps included in the 2011 Plan, in part because SVWHCA attributed the underutilization of campus parking to the fees charged by the University rather than to the demonstrated effectiveness of some of the University's past TDM measures, such as increased ridership of the AU shuttle bus.

The University will continue to implement its program to discourage the parking of university-affiliated vehicles on neighborhood streets. Based on the evidence in the record, and the absence of evidence of significant problems in finding parking on neighborhood streets, the Commission concludes that the Good Neighbor policy has been reasonably effective and the University has been appropriately aggressive in its efforts to mitigate any potential adverse impacts related to parking. The Commission was not persuaded by claims to the contrary by ANC 3D, NLC, or WPHC.

**Noise.** Based on the Findings of Fact and the conditions of approval adopted in this Order, the Commission concludes that the 2011 Campus Plan is not likely to create objectionable conditions due to noise. Uses within the Campus Plan boundaries have been located to minimize

possible noise impacts, and the University has installed landscaped buffers around the edges of the campus and taken other steps to prevent objectionable noise. The conditions adopted in this Order impose significant restrictions on the use of the University's athletic fields and prohibit the use of amplified sound until a new sound system is installed that is effective in preventing adverse impacts on neighboring properties due to noise. These conditions are consistent with the recommendation of the Office of Planning to improve certain elements of the Applicant's proposal to lessen their potential noise impacts.

**New Developments.** With regard to the Applicant's proposal for new developments anticipated over the term of the new plan, the Commission concludes that all the projects are appropriate for inclusion in the 2011 Campus Plan, but notes that some of the projects, such as the planned bleachers at Reeves Field, present issues that will be addressed as part of an application for further processing. The Commission does not agree with Mr. Herzstein that the South Hall project should be rejected because the planned building would "tower" over nearby residences; as Mr. Herzstein acknowledges, the building would be located "several hundred feet from the boundary of the campus" and therefore at a distance from even the nearest residences. Any noise or other adverse impacts that any party alleges with respect to the South Tower will be addressed when the Applicant submits a more specific proposal for that project. In any future further processing application for any of the projects, the Applicant will be required to demonstrate, in adequate detail, that the proposed development will comply with the relevant special exception criteria and that no adverse impacts will result from a project as designed within the parameters approved by the Commission in this Order.

**Further Processings.** With regard to the Applicant's three proposals for further processing of the 2011 Plan, the Commission concludes that the projects – the Mary Graydon Center addition, the Nebraska Hall addition, and development of the East Campus – satisfy the requirements of the Zoning Regulations and can be approved, subject to the conditions in this Order, without creating objectionable conditions or adversely affecting the use of neighboring property. The Mary Graydon Center addition will add 20,000 square feet of dining and activity space in a location at the center of the campus, surrounded by other university uses. The project was not opposed by the ANCs or the parties in opposition, and is not likely to create any objectionable conditions, including those related to traffic, noise, or number of students. The Nebraska Hall addition will enlarge an existing student residence to increase the supply of on-campus housing by 150 beds. Noting that this project also was not opposed by the ANCs or the parties in opposition, the Commission concurs with the Applicant that the Nebraska Hall addition is not likely to create any objectionable conditions, including those related to traffic, parking, noise, or number of students.

**East Campus.** As finally proposed, the East Campus will contain six buildings: three student residences containing a total of 590 beds, and three academic/administrative buildings. The Commission concludes that the East Campus site is an appropriate location for the proposed development and that the Applicant's proposal, as finally amended, is consistent with the Zoning

Regulations and with the Comprehensive Plan. As part of a university campus, the site is subject to the FAR aggregation provisions of § 210.3, and is not limited to the maximum density that would otherwise be permitted as a matter of right. In addition, the Commission and the Board of Zoning Adjustment have recognized a range of uses as accessory to a principal university use of a site, including retail uses.<sup>5</sup>

The East Campus development will not be out of character with its surroundings. The site is across Nebraska Avenue from the largest part of the Main Campus, and is near several other institutional uses, including churches and office complexes, also fronting on Nebraska Avenue. The abutting lower-density residential community, Westover Place, already borders some high-density developments, as large apartment buildings are located along Massachusetts Avenue to the south and east. The redevelopment of the underutilized parking lot will improve the site and enhance its surroundings; the Commission does not agree with ANC 3D that the existing parking lot provides a “significant” buffer between the University and abutting uses that should be retained, especially in light of the landscaped buffer and arrangement of buildings proposed by the University.

Based on the Findings of Fact and the conditions of approval adopted in this Order, the Commission finds that the East Campus project is not likely to create objectionable conditions or adversely affect the use of neighboring property, considering especially the site design, including the location and design of the “buffer buildings”; elements of building design, such as the location of entrances and the absence of balconies; the number of student beds in the residential buildings, where students will be subject to the University’s residence hall regulations, code of conduct, and other rules governing student behavior; and the provision of a large landscaped buffer between the East Campus and the abutting residences. OP and ANC 3E both concurred that the East Campus site was appropriate for university use. The Commission was not persuaded by ANC 3D or the parties in opposition that the proposed university use of the East Campus site, subject to the conditions of approval, was unnecessary or likely to result in objectionable conditions relating to noise, density of development, student conduct, risks to pedestrians, visual impacts, or other potential adverse impacts. Similarly, the Commission was not persuaded that measures recommended by ANC 3D (such as limits on conferences, requirements to provide outdoor recreational space for students, and patrols of the student residences, with quarterly reports provided to neighbors) were necessary or warranted. The Commission agrees with the Applicant and DDOT that the mid-block pedestrian signal will provide a safe means for pedestrians to cross Nebraska Avenue without creating adverse impacts for vehicular traffic.

The Commission was not persuaded that the Applicant’s prior requests concerning the amount of retail space to be provided on the East Campus were consistent with requirements of the Zoning

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<sup>5</sup> See, e.g., BZA Appeal No. 17249 (order issued February 8, 2006), upholding certificate of occupancy issued to a restaurant, open to the public, located in a student residence building on a university campus in an R-5-D zone.

Regulations or with provisions of the Comprehensive Plan. The final plan to provide 3,000 square feet of retail space, an amount consistent with the recommendation of the Office of Planning, is not likely to alter the character of the neighborhood, create parking or vehicular impacts, or attract customers beyond the scope of the university use.

Comprehensive Plan. Based on the Findings of Fact and evidence in the record, the Commission concurs with the Applicant and OP that approval of the 2011 Campus Plan, as finally modified and subject to the conditions of approval adopted in this Order, is not inconsistent with the Comprehensive Plan. The University's campus is designated an Institutional Land Use and will further many policies of the Comprehensive Plan without threatening the character of the adjoining residential neighborhoods. The Commission does not agree with OP that the density of student housing proposed for the East Campus site would be inconsistent with Comprehensive Plan policies intended to promote neighborhood conservation, in part because the density of student housing varies across the University's campus, and has not created adverse impacts even at a density higher than that approved for the East Campus. Similarly, the Commission was not persuaded by the ANCs or the parties in opposition that the 2011 Campus Plan should be rejected as inconsistent with the Comprehensive Plan. However, the Commission concurs with OP's comments regarding the provision of retail space at the East Campus, and therefore adopts the reduced amount last proposed by the Applicant.

Community Liaison Committee. The Commission commends the efforts of the University to improve the effectiveness of the liaison committee in addressing any complaints that may arise concerning the university use approved in the 2011 Campus Plan. The recent modifications, especially those calling for the involvement of key University personnel and a broad representation of neighborhood residents as well as the implementation of a dispute resolution process, will provide an appropriate forum to discuss and resolve any issues that arise.

Conferences. The Commission recognizes the importance of conferences and similar public gatherings to the University, provided that the events are conducted in a way that does not create adverse impacts related to traffic or parking, or other objectionable conditions. The Commission declines to adopt the recommendation of NLC and WPHC to impose "limits as to character, frequency, attendance, and location," including a ban on large conferences at the East Campus. Rather, the Commission will continue a condition adopted in the 2001 Campus Plan that permits periodic use of campus facilities for conferences while precluding the development of any new conference facility without specific approval as an amendment of the campus plan.

Off-Campus Properties. ANC 3D and the parties in opposition made several recommendations related to the University's use of off-campus properties, including restrictions on any future acquisitions of property outside the campus plan boundaries for university use and lower caps on enrollment to discourage university expansion. The Commission appreciates the concerns expressed about university expansion off campus, especially in connection with the loss of neighborhood retail. However, in this proceeding, the Commission is limited to a review and

evaluation of the Applicant's proposed campus plan relative to the requirements of the Zoning Regulations, especially § 210; that is, the location of a university use in a Residence zone. The Applicant's use of off-campus property is beyond the scope of this proceeding, and is not inconsistent with the Zoning Regulations currently in effect.<sup>6</sup>

Other Conditions. ANC 3D recommended adoption of a condition requiring the Applicant to develop a landscaping plan in consultation with neighbors, as well as a stormwater management plan. Similarly, Robert Herzstein claimed that the University's inadequately maintained its landscape screening and therefore must be required to consult with neighbors on specific screening needs and plant upgrades. ANC 3D also advocated restrictions that would prevent the University from displaying outdoor advertising on buildings that front on major avenues. The Commission declines to adopt these recommendations because the parties did not identify specific adverse impacts within the meaning of the Zoning Regulations or explain how their proposals were warranted to address any objectionable conditions that would result from approval of the Applicant's proposal.

Mr. Herzstein also advocated implementation of a mechanism to resolve disputes in the event that neighbors assert that the University is not complying with the requirements of this Order. While this recommendation is outside the purview of the Zoning Regulations in a campus plan proceeding, in that a zoning enforcement procedure is already in place to address allegations of noncompliance, the Commission notes that the Applicant has agreed to implement an alternative dispute resolution process in connection with the Community Liaison Committee and the use of amplified sound on the University's athletic facilities.

Great Weight. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the recommendations of the Office of Planning. The Commission concurs with the recommendation of the Office of Planning to approve the application subject to conditions designed to mitigate potential adverse impacts. OP's recommended conditions have guided and informed the Commission's deliberations in this proceeding, although the Commission was not persuaded by OP's recommendation to limit the number of student beds on the East Campus and found the Applicant's proposal appropriate instead.

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<sup>6</sup> See, e.g. BZA Appeal No. 16507 (order issued February 11, 2000) (university's dormitory use of certain property outside its campus plan boundaries did not require special exception approval because the property was zoned R-5-E, which allows dormitory use as a matter of right), *aff'd, Watergate West, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 815 A.2d 762 (D.C. 2003). The example of restrictions on the use of off-campus property imposed on George Washington University is inapposite, because those limits were the result of a proffer made by the university in support of a planned-unit development for its campus approved pursuant to chapter 24 of the Zoning Regulations. See Z.C. Order No. 06-11/06-12 (issued October 26, 2007); *aff'd, Foggy Bottom Ass'n v. District of Columbia Zoning Com'n*, 979 A.2d 1160 (D.C. 2009).

The Commission is also required to give “great weight” to the issues and concerns raised by the affected ANCs. Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2001)). This proceeding involved the participation of three affected ANCs, which raised numerous – and sometimes conflicting – issues and concerns. Each of the issues and concerns of the affected ANC’s were acknowledged and fully discussed in this Order. The participation of the affected ANCs also guided and informed the Commission’s deliberations in this proceeding, and, while the Commission was not persuaded that the Applicant’s proposal should be denied or remanded for further discussions with the community, the issues and concerns of the affected ANCs were considered in the Commission’s formulation of conditions of approval of the 2011 Campus Plan.

Accordingly, it is **ORDERED** that the application for approval of a new campus plan for an extended and enlarged university use, as well as further processing of the approved plan for the development of the East Campus, an addition to Nebraska Hall, and an addition to the Mary Graydon Center, is **GRANTED SUBJECT** to the following **CONDITIONS**:

1. The Campus Plan shall be approved for a term of 10 years beginning with the effective date of this Order as indicated below.<sup>7</sup>
2. The approved Campus Plan boundary shall be the Main Campus (including the East Campus) and the Tenley Campus as shown in the American University 2011 Campus Plan and marked as Exhibits 8 and 9 in the record.
3. Student enrollment (headcount) shall not exceed 13,600, including any matriculated student enrolled in at least one class in any property included in the 2011 Plan. Enrollment of students at the Tenley Campus (*i.e.*, all matriculated students at the Washington College of Law registered for a regular academic program, whether full-time or part-time) shall not exceed 2,000. The maximum 2,000 students at the Tenley Campus shall be included in the Applicant’s overall cap of 13,600 students. Enrollment shall be determined annually on a headcount basis.
4. The number of employees shall not exceed 2,900.
5. Until the start of the fall 2016 semester, the University shall maintain a supply of housing sufficient to make housing available for 85% of its full-time freshman and sophomore students and for 62% of all full-time undergraduates. All of the freshman and sophomore housing and 59% of the housing for full-time undergraduates shall be located entirely on

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<sup>7</sup> In a campus plan proceeding, the Commission follows the rules of the Board of Zoning Adjustment except for § 3218. (See 11 DCMR § 3035.5.) Subsection 3125.6 of the Board’s rules provides that “a decision or order shall be and become final upon its filing in the record and service upon the parties.”

campus. By the start of the fall 2016 Semester, the University shall maintain a supply of on campus housing sufficient to make housing available for 100% of its full-time freshman and sophomore students and for 67% of all full-time undergraduates. Nothing in this condition is intended to preclude the University from continuing to house undergraduate students who are not freshmen or sophomores off-campus after the fall 2016 semester begins; provided that the University maintains the minimum percentage of on-campus housing required.

6. The University shall enforce its residence hall regulations in all University-provided housing, including the student residences on the East Campus.
7. Campus facilities built for residential and instructional purposes may, from time to time, be used for conferences; however, any purpose-built conference facility proposed to be constructed by the University on campus shall require amendment of the Campus Plan and specific approval of the conference-facility use through the special exception process.
8. The University shall abide by the terms of the student code of conduct, which shall apply to student behavior both on and off campus, and shall continue to implement its “Neighborhood Action Program” to address off-campus conduct by students living in neighborhoods adjacent to the campus. The University shall promote its “Good Neighbor Guidelines” through student workshops sponsored by the Off-Campus Housing Office.
9. The University shall abide by the terms of the lighting plan submitted as Exhibit 440 of the record and described in Finding of Fact No. 203.
10. The University shall submit to the Commission, as a special exception, each individual request to construct a building or structure described in the Campus Plan. Along with each request, the University shall submit information as to how the particular building or structure complies with the Plan as well as an updated traffic analysis and a report indicating the supply of on-campus housing and the number of full-time undergraduate students.
11. At the time the University files a permit application with the Department of Consumer and Regulatory Affairs for ground clearance, excavation, or other major construction that would implicate remedial work performed at or around the campus by the Army Corps of Engineers, the University shall provide notification to the D.C. Department of the Environment or other appropriate agency, the Army Corps of Engineers (Baltimore Office), and the U.S. Environmental Protection Agency, Region 3, that the University intends to undertake such activities.
12. 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 the conditions set forth in this Order. 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 Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, D.C. Official Code §§ 2-1801.01 to 2-1803.03 (2001).

13. The University shall continue to implement traffic demand management (“TDM”) measures to minimize any adverse impacts of university-affiliated traffic:
  - (a) Transit. The University shall, at a minimum, maintain its existing shuttle bus and SmartBenefits programs. The University shall also investigate ways to improve transit service on campus through measures such as (i) improving information on websites, including maps of specific routes (AU shuttle and Metrobus) that serve the campus, (ii) coordinating with the Washington Metropolitan Area Transit Authority (“WMATA”) to make SmarTrip cards available on campus, and (iii) assessing the feasibility of implementing real-time tracking of AU shuttles on a website, mobile devices, and displays at transit stops. The University shall measure the success of its transit programs, considering factors such as the levels of ridership on various routes served by the shuttle buses and proportion of employees registered for the SmartBenefits program, and shall publish the results in monitoring reports;
  - (b) Carpooling. The University shall, at a minimum, maintain its existing carpool program, and shall investigate ways to encourage participation in the carpool program through measures such as providing preferred parking and larger discounts for participants, and by implementing a “guaranteed ride home” (“GRH”) program for eligible carpoolers. The University shall measure the success of its carpool programs, considering factors such as the number of carpools and total participants relative to the number of employee parking passes on campus, and shall publish the results in monitoring reports;
  - (c) Car-sharing. The University shall maintain the availability of car-sharing on campus (including during construction of the East Campus) with an appropriate number of spaces, and shall investigate means to encourage use of car-sharing through measures such as marketing the service as an alternative to private automobile ownership and providing spaces sufficient to accommodate usage. The University shall measure the success of its car-sharing program, and shall publish the results in monitoring reports;
  - (d) Bicycle Programs. The University shall, at a minimum, maintain its existing bicycle programs. The University shall also investigate ways to encourage the

use of bicycles to help reduce demand for other transportation services through measures such as: (i) providing incentives to encourage bicycling; (ii) improving both short- and long-term bicycle parking, consistent with DDOT's standards, in appropriate locations; (iii) providing information about bicycle riding in the District, bicycle routes between campus and major destinations, and locations on campus for bicycle parking and storage; and (iv) encouraging the use of Capital BikeShare, such as by marketing and providing additional space for the service. The University shall measure the success of its bicycle programs, considering factors such as the number and location of bicycle parking spaces and the number of new bicycle registrations, and shall publish the results in monitoring reports;

- (e) Marketing. The University shall create a TDM marketing program to provide detailed, comprehensive information to the Campus community on matters related to transportation policies and travel options, using a variety of means such as an access guide, a dedicated web site, brochures for students and employees, and information kiosks. The University shall measure the success of its TDM marketing program and shall publish the results in monitoring reports; and
- (f) Monitoring. The University shall adopt a monitoring program to evaluate campus travel habits and the effectiveness of the various TDM strategies, considering factors such as measurements of traffic, parking, transit use, and mode splits, for the purpose of implementing improvements to its TDM program. The University shall provide a monitoring report annually to ANCs 3D, 3E, and 3F, and shall make the reports available to the public.

14. The University shall maintain an inventory of approximately 2,500 parking spaces on campus. The University shall continually evaluate its pricing policies for parking with the intention of discouraging vehicle trips to the campus without generating demand for off-campus parking by university-affiliated vehicles. The University shall provide DDOT with annual reports on parking utilization that reflect the number of non-carpool passes sold each year relative to the number of full-time equivalent employees and the number of occupied spaces on a typical semester weekday.

15. The University shall continue to implement the following program regarding enforcement of student, faculty, staff, and vendor off-campus parking:

- (a) The University shall use its best efforts to require all students, faculty, staff, and vendors servicing the campus to park on the campus and shall prohibit, to the extent permitted by law, students, faculty, staff, and vendors from parking on the streets adjacent to and surrounding the campus. The University shall use its best efforts to cause other University-related vehicles to park on the campus. To accomplish these purposes, the University shall have in place a system of

administrative actions, contract penalties, fines, which may be adjusted from time to time as needed, and/or termination of contracts for violations;

- (b) Construction employees, contractors, and subcontractors shall by contract be prohibited from parking on residential streets, subject to contractual penalties or termination. Visitors to the campus, including attendees of all conferences, shall be encouraged to use on-campus parking and, where feasible, notified in advance to do so;
- (c) For conferences and large special events, the Applicant shall work with area institutions in order to provide additional parking as needed; and
- (d) The University shall direct its students to register their vehicles in the District of Columbia, or to obtain a reciprocity sticker if eligible to do so. The University shall withhold parking privileges from students who do not comply with D.C. registration requirements. Failure to abide by District law concerning registration of student vehicles shall constitute a violation of the Student Conduct Code.

16. The University shall continue to work with community representatives to maintain the Community Liaison Committee created in the 2001 Campus Plan, with the enhancements to the composition, structure, purpose and leadership proposed by the Applicant for the 2011 Plan (see Findings of Fact 207-208.) for the purpose of fostering consistent communication between the University and the surrounding neighborhoods, discussing issues of mutual interest, and proposing solutions to problems that exist or arise in implementing the approved campus plan. It is recommended that the Community Liaison Committee be composed of an equal number of representatives of the University and the community and meet as necessary, but at least quarterly; separate meetings may be held to discuss matters of particular interest to the Main or Tenley Campus, if desired. Upon request, the University shall provide timely data relevant to campus plan issues to the Community Liaison Committee, provided that the data is not confidential or overly burdensome to produce. The University shall convene the first meeting of the Community Liaison Committee within three months of the effective date of this Order.

Jacobs Field

17. The University shall be permitted to use Jacobs Field for university events, defined as intercollegiate athletic events, university club sports, university Greek life sports, university intramural sporting events, university-related athletic activities (such as ROTC training and informal athletics events), and sporting camps sponsored by the University. All other uses of Jacobs Field shall be considered “special events” (as defined below).

18. The University shall maintain key-access gates between Jacobs Field and University Avenue. These gates shall be available only to neighbors to enter and exit University grounds, and shall not be used by University personnel or students to exit or enter University property.
19. The University shall not install roads or parking lots in the area between Jacobs Field and the property line abutting neighboring properties to the west of Jacobs Field.
20. The University shall maintain the existing landscape buffering between Jacobs Field and the property line adjacent to the neighboring properties to the west of Jacobs Field.
21. The University shall maintain the existing fence, which is six to seven feet tall, adjacent to neighboring properties to the west of Jacobs Field.
22. The University shall permit use of Jacobs Field only between dawn and dusk, and shall not illuminate Jacobs Field for evening or night uses.
23. The University shall make its athletic schedules publicly available via the University's website, and shall use its best efforts at the beginning of each academic year to publicize the schedule of athletic events at Jacobs Field. For athletic events scheduled less than 30 days ahead, the University shall make all reasonable efforts to publicize the athletic events as soon as possible.
24. The University shall implement measures to limit the noise impacts of activity on Jacobs Field on neighboring residential properties:
  - (a) Amplified sound shall not be used until a new sound system is installed and objectionable impacts of amplified sound are eliminated. With the assistance of expert sound engineers and in close collaboration with and personal involvement of Robert Herzstein of 4710 Woodway Lane, NW, the University shall install an alternative speaker/sound system that will distribute sound more evenly at the ground level (as opposed to the use of a traditional loudspeaker system) and other measures that the acoustics engineers recommend to remedy the problem and that comply with applicable sound regulations. In the event of an intractable dispute between Mr. Herzstein and the University regarding the new sound system that renders the parties unable to reach agreement, the University shall commit to alternative dispute resolution and engage, within one month and at the University's expense, a third-party mediator. The University shall seek the participation of Mr. Herzstein in the selection of the mediator or mediation services;

- (b) Amplified music shall not be permitted until the new sound system is installed and objectionable impacts of amplified sound are eliminated;
- (c) The scoreboard air horn shall not be used on Jacobs Field until a satisfactory method for using it is devised;
- (d) The University shall not permit the use of bullhorns, cowbells, or any other similar device by spectators;
- (e) Pursuant to playing rules and requirements of specific sports, a game management sound device (such as a sound that makes players and referees aware of substitutions, the end of period, etc.) may be used, but shall operate within applicable sound regulations;
- (f) If the above measures do not reduce the sound from Jacobs Field (“Field”) to a level satisfactory to the adjacent neighbor, the University shall take such other remedial measures along the western boundary of the Jacobs Field, including sound curtains or other devices as suggested by the Office of Planning, as are effective in reducing the sound from the Field to a non-objectionable level and are agreeable to the adjacent neighbor;
- (g) After a new sound system is installed, amplified sound may be used only for intercollegiate games and special events not to exceed a total of 40 each year; and
- (h) The University shall provide owners of neighboring properties the telephone numbers for appropriate representatives (e.g., staff of its Public Safety Department or Community Relations or Dean of Students offices) to address concerns regarding noise on Jacobs Field.

25. To the extent that Jacobs Field is used for a special event (i.e. not a University-related athletic event as defined in Condition 23), such as graduation, homecoming, picnics, receptions, or charitable events (such as the Juvenile Diabetes Research Foundation’s annual Real Estate Games), or exhibitions, the University shall comply with the following requirements:

- (a) The use of amplified sound shall not be permitted until the University installs a new sound system (described above) and thereafter the number of special events using sound amplification shall be limited to 12 per calendar year;
- (b) The University shall provide owners of neighboring properties with telephone numbers to reach appropriate representatives of the University (such as staff of

the Public Safety Department, Community Relations office, or office of the Dean of Students) to address concerns regarding noise and activity on Jacobs Field;

- (c) The University shall provide notice of special events to residents in the vicinity of Jacobs Field, on Woodway Lane, and on University Avenue, as well as to any other persons who request notice or whose names are supplied to the University. Notice shall be provided in writing or by fax or email as far in advance as possible, but generally at least 30 days before an event;
- (d) The University shall use its best efforts to avoid scheduling a special event for a date on which a neighbor has informed the University in advance that the neighbor is planning a party or other important occasion; and
- (e) The University shall use its best efforts to observe the following guidelines relating to special events on the athletic fields:
  - (i) Special events shall be conducted only between the hours of 8:00 a.m. and dusk;
  - (ii) Amplified sound for special events on Jacobs Field shall be permitted only with permission from the Office of Student Activities. Sound amplification produced by public address systems, loudspeakers, bullhorns, musical amplifiers, or other similar devices for the intensification of sound shall not be permitted to unreasonably interfere with or disturb neighbors' enjoyment of their property or with the University's academic or administrative activities, consistent with the University's Sound Amplification Policy;
  - (iii) Vehicles essential for servicing the special events may park in the western parking area closest to Jacobs Field, but only if other parking locations are not feasible. In no event shall service vehicles park next to adjacent residences;
  - (iv) If an unauthorized special event (an event not scheduled by the University) occurs, neighbors may contact the designated university staff contact person; and
  - (v) Noise guidelines shall be provided to, and made part of, any arrangement between the University and the organization sponsoring the special event or the department or student group sponsoring the special event.

**Nebraska Hall Addition**

26. The addition shall be sited as shown in Exhibit 50 of the record and shall be set back approximately 97 feet from Nebraska Avenue and 45 feet from the rear (west) property line. Building height shall not exceed three stories, as aligned with the height of the existing third floor of Nebraska Hall. The gross floor area of the addition shall not exceed 50,000 square feet, and the addition shall provide at least 150 new beds and shall contain a multipurpose room with capacity for a 35-person meeting. The existing driveway shall remain and be used for drop-off and service access. No resident parking shall be provided on-site. Student access to the new addition shall be provided only from the Nebraska Avenue side of the property. Except for solar panels, no mechanical equipment or antennas/dishes shall be installed on the roof of the addition.
27. The University shall extend the existing fence along the north property line until it reaches the east property line along Nebraska Avenue, with the new fencing matching the seven feet in height of the existing fencing. The University shall install and maintain a landscape buffer of evergreen and deciduous plantings along the western perimeter to screen views of the building from neighboring residences. The University shall consult with the Fort Gaines Citizens' Association in deciding the landscaping design.
28. The University shall have the flexibility 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 configurations of the structures.
29. The University is granted the flexibility to vary the final selection of the exterior materials within the color ranges and material types proposed, based on the availability at the time of construction, and to make minor refinements to exterior details and dimensions, including belt courses, sills, bases, cornices, railings, trim, and façade patterns and articulations.
30. The University shall minimize the impact of construction activity on neighboring properties by:
  - (a) Appointing a University staff liaison to address concerns and answer questions regarding construction activity;
  - (b) Establishing a 24-hour construction contractor telephone contact for reporting problems and establishing a process for timely response;
  - (c) Conducting preconstruction inspections (including a photographic record) of nearby properties to establish a baseline for assessing potential construction-re-

lated damage and establishing a process for expeditiously and fairly handling damage claims;

- (d) Holding a preconstruction community meeting to coordinate planned construction activities at least 90 days before construction to include construction managers;
- (e) Limiting construction work to Monday through Friday, 7:30 a.m. to 4:00 p.m.; however, interior work not creating an impact on neighboring residences may take place outside these hours; and
- (f) Prohibiting construction traffic and construction worker parking on the nearby residential streets.

31. Pursuant to 11 DCMR § 3130 the portion of this Order approving the addition shall not be valid for more than two years after it becomes effective unless, within such two-year period, the University files plans for the proposed addition with the Department of Consumer and Regulatory Affairs for the purpose of securing a building permit(s), or the applicant files a request for a time extension pursuant to § 3130.6 prior to the expiration of the two-year period and that such request is granted. No other action, including the filing or granting of an application for a modification pursuant to § 3129.2 or 3129.7, shall extend the time period.

32. Pursuant to 11 DCMR § 3125, the Commission's approval of the addition includes approval of the plans submitted with the application for the construction of the addition. The University shall carry out the construction only in accordance with the plans approved by the Commission as the same may be amended and/or modified from time to time by the Commission.

Mary Graydon Center

33. The addition shall be sited as shown in Exhibit 9 of the record, where the building height shall not exceed four stories and the gross floor area of the addition shall not exceed 20,000 square feet.

34. The University shall have the flexibility 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 configurations of the structures.

35. The University is granted the flexibility to vary the final selection of the exterior materials within the color ranges and material types proposed, based on the availability at the time of construction, and to make minor refinements to exterior details and

dimensions, including belt courses, sills, bases, cornices, railings, trim, and façade patterns and articulations.

36. Pursuant to 11 DCMR § 3130 the portion of this Order approving the addition shall not be valid for more than two years after it becomes effective unless, within such two-year period, the University files plans for the proposed addition with the Department of Consumer and Regulatory Affairs for the purpose of securing a building permit(s), or the applicant files a request for a time extension pursuant to § 3130.6 prior to the expiration of the two-year period and that such request is granted. No other action, including the filing or granting of an application for a modification pursuant to § 3129.2 or 3129.7, shall extend the time period.
37. Pursuant to 11 DCMR § 3125, the Commission's approval of the addition includes approval of the plans submitted with the application for the construction of the addition. The University shall carry out the construction only in accordance with the plans approved by the Commission as the same may be amended and/or modified from time to time by the Commission.

East Campus

38. Buildings 1 through 6 shall be sited as shown in Exhibits 589 and 602 of the record. The East Campus shall contain a maximum of 590 beds for undergraduate students, and a maximum of 3,000 square feet (located in Building 1) devoted to retail use.
39. The University shall have the flexibility 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 configurations of the structures.
40. The University is granted the flexibility to vary the final selection of the exterior materials within the color ranges and material types proposed, based on the availability at the time of construction, and to make minor refinements to exterior details and dimensions, including belt courses, sills, bases, cornices, railings, trim, and façade patterns and articulations.
41. The University shall undertake the following actions to mitigate any adverse impact on adjacent properties resulting from construction activity related to the development of the East Campus:
  - (a) Pre- and Post-Construction Surveys of Adjacent Westover Place Properties – The University shall request access to the adjacent Westover Place properties to conduct surveys before the commencement and after completion of the

construction work on the East Campus. The surveys are intended to provide the University and owners of adjacent property a reference point from which to determine the effect, if any, that construction work on the East Campus has on the adjacent Westover Place properties. The surveys will be performed at the University's sole cost and expense. Each survey report shall be provided to the University and to the appropriate property owner. If the University is not permitted access to the property of an adjacent property owner, the University shall not be required to perform a survey for that property;

- (b) **Responsibility for Damage to Adjacent Properties** – The University shall repair, at its own expense and as promptly as reasonably possible, any damage to the properties of an adjacent property owner, and any improvements thereon, caused by and resulting from the construction work conducted on the East Campus;
- (c) **Hours of Construction and Pre-Construction Community Meeting** – The University shall limit construction hours to Monday – Friday 7:30 a.m. to 4:00 p.m. Interior work not creating an impact on adjacent properties may take place outside of these hours. The University shall hold a pre-construction community meeting to coordinate planned construction activities on the East Campus at least 90 days before construction activity starts. The University shall schedule the meeting at a time that helps foster maximum community participation. Attendees of that meeting shall include representatives of the University's general contractor and its on-site construction representative;
- (d) **Site Management** – The University shall erect and maintain construction fencing and barricades to screen and secure the site during the construction process. All excavated materials shall be removed from the East Campus via existing driveways on New Mexico Avenue and Nebraska Avenue. All construction-related deliveries to the East Campus shall occur from existing driveways on New Mexico Avenue or Nebraska Avenue. Although the University does not anticipate the need for any street closures as the result of the construction activity on the East Campus, sidewalk closures may be needed to maintain a safe environment. Notice of such closures shall be communicated in advance to the community. Parking spaces for all construction workers and deliveries shall be provided on the East Campus. No construction-related parking shall be permitted on nearby residential streets. The University shall remove rubbish and construction debris continuously during the construction period during the normal construction workday. The University shall monitor and police the construction site daily or more often as required to ensure cleanliness. The University shall also undertake a program of pest control to ensure that no increase in pest activity occurs during the construction period. All excavation or backfill trucks shall be

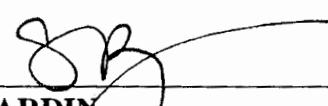
covered before proceeding from the East Campus onto public streets. Dust and debris shall be removed from the East Campus on an as-needed basis; and

(e) Applicant's On-Site Construction Representative – The University shall designate a representative to be the key contact during the period of construction on the East Campus. At any time construction activity is occurring on the East Campus, the representative or his/her designee shall be available on-site or by telephone to receive communications. The University shall make available, at minimum to the owners of adjacent property, the name and telephone number of a person designated by the University to be contacted in case of emergency when no construction activity is occurring. The representative and his/her designee shall be able to answer questions, receive comments about site activities, and address concerns raised throughout the construction process.

**VOTE:** **4-0-0** (Anthony J. Hood, Konrad W. Schlater (by absentee vote), Peter G. May, and Michael G. Turnbull voting to approve; Marcie I. Cohen not participating.)

**BY ORDER OF THE D.C. ZONING COMMISSION**  
Each concurring member approved the issuance of this Order.

ATTESTED BY:

  
\_\_\_\_\_  
**SARA A. BARDIN**  
**OFFICE OF ZONING DIRECTOR**

**FINAL DATE OF ORDER:** MAY 17 2012

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of Zoning



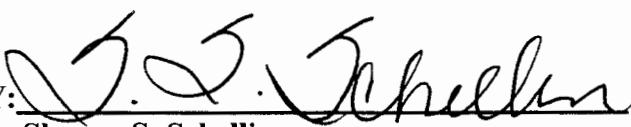
Z.C. CASE NO.: 11-07

MAY 17 2012

As Secretary to the Commission, I hereby certify that on \_\_\_\_\_ copies of this Z.C. Order No. 11-07 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

1. <i>D.C. Register</i>	8. Commissioner Beverly Sklover ANC/SMD 3E01 4504 Albemarle Street, N.W. Washington, D.C. 20016	16. Neighbors for a Livable Community c/o Laurie Horvitz, Esq. 4520 East-West Highway, Suite 700 Bethesda, Maryland 20016
2. Paul Tummonds, Esq. Goulston & Storrs 1999 K Street, N.W. Washington, D.C. 20006	9. Commissioner Jonathan Bender ANC/SMD 3E03 4411 Fessenden Street, N.W. Washington, D.C. 20016	17. Westover Place Homes Corporation c/o Laurie Horvitz, Esq. 4520 East-West Highway, Suite 700 Bethesda, Maryland 20016
3. ANC 3D P.O. Box 40846 Washington, D.C. 20016	10. Commissioner Sam Serebin ANC/SMD 3E05 4300 Van Ness Street, N.W. Washington, D.C. 20016	18. Tenley Campus Neighborhood Association c/o Allison Fultz, Esq. Kaplan Kirsch & Rockwell, LLP 1001 Connecticut Ave., N.W., Suite 800 Washington, D.C. 20036
4. ANC 3E c/o Lisner-Louise-Dickson- Hurt Home 5425 Western Avenue, N.W. Washington, D.C. 20015	11. Councilmember Mary Cheh	19. Tenley Neighbors Association c/o Judy Chesser 3901 Alton Place, N.W. Washington, D.C. 20016
5. ANC 3F Box 244 4401-A Connecticut Avenue, N.W. Washington, D.C. 20008-2322	12. DDOT (Martin Parker)	20. Robert Herzstein 4710 Woodway Lane, N.W. Washington, D.C. 20016
6. Commissioner Tom Smith ANC/SMD 3D02 4601 Tilden Street, N.W. Washington, D.C. 20016	13. Melinda Bolling, Acting General Counsel DCRA 1100 4th Street, S.W. Washington, D.C. 20024	
7. Commissioner Deon Jones ANC/3D07 Letts Hall 4400 Massachusetts Avenue, N.W. #513 Washington, D.C. 20016	14. Office of the Attorney General (Alan Bergstein)	
	15. Spring-Valley-Wesley Heights Neighborhood Association c/o Michael Mazzuchi 4430 Macomb Street, N.W. Washington, D.C. 20016	

ATTESTED BY:

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