

Testimony By ANC 3D Commissioner Thomas M. Smith
On Behalf Of Advisory Neighborhood Commission (ANC) 3D
Before the Board Of Zoning Adjustment
Re: BZA Appeal No. 18857
November 18, 2014

Chairman Jordan and Members of the BZA,

Good morning. My name is Thomas Smith and I have been designated by Advisory Neighborhood Commission (ANC) 3D to represent the ANC in this case. I have served on the ANC for eight years as the representative of DC residents immediately surrounding American University (AU). I represented the ANC before the Zoning Commission (ZC) in 2011 and 2012 for the review of the AU Campus Plan and Further Processing of the East Campus. AU won approval in that case to build nearly 1 million gsf of new development in a residentially zoned neighborhood.

We are not here today to reargue a Campus Plan case decided by the ZC more than two years ago. We are here today because ANC 3D believes that a determination of the Zoning Administrator (ZA) that building plans submitted as part of a zoning case are not binding, but rather only “illustrative,” is a precedent that will have a significant impact on the review of Special Exception and other zoning cases by ANCs across the city as well as by the ZC and the BZA. Furthermore, ANC 3D believes the ZA decision is inconsistent with current zoning rules.

The issue before the BZA today is this: Once a Special Exception is approved, is the applicant required to build to the plans approved by the ZC? That is, do plans and drawings in a Further Processing Special Exception review have any purpose when submitted or are applicants – in this case American University – free to make major changes in those plans at will without going through the formal amendment process stipulated in DC zoning rules?

1. ZA Decision Is Inconsistent With DC Zoning Code Section 3125.7

ANC 3D believes the ZA erred in approving a permit for construction that varied significantly from the plans submitted as part of the Special Exception Further Processing case. ANC 3D believes the meaning of Section 3125.7 of the DC Zoning Code is clear: “Approval of an application shall include approval of the plans submitted with the application for the construction of a building or structure” unless conditions in the Zoning Order specifically say

otherwise. This does not put the burden on the Zoning Commission to specify what plans are to be followed – contrary to the argument put forward by DCRA – but rather the burden on the ZC, according to Section 3125.7 is to outline specifically what plans submitted are not to be followed. Furthermore, ANC 3D believes that Section 3035.5 of the Zoning Code is equally clear in stating that Section 3125.7 applies to decisions made by the ZC in cases involving Special Exception Further Processing cases.

In this case, AU proposed in a March, 2011 Further Processing application for special exception relief – the second stage review of a Campus Plan project – to build a one-story 150-space parking garage – with a bus turn around – under the six building-development planned for the new East Campus. The Further Processing Application for second stage review was filed simultaneously with the Campus Plan, the first stage application in the review process. The Zoning Commission approved the Further Processing and issued an Order in May, 2012.

When AU filed for a permit application two years later in January, 2014 to build the East Campus Project, AU altered its plans for the underground garage. The university shrunk the footprint of the garage and built down instead expanding the garage to two floors underground and eliminated the bus turn around while maintaining the same number of parking spaces. AU now argues in its statement to the BZA in opposition to the ANC's appeal that "further engineering and structural analysis" necessitated the change.

On the other hand, DCRA turns Section 3125.7 on its head by arguing that the building plans are not binding because the Zoning Commission didn't specifically say they were, which runs counter to the language in Section 3125.7 which puts the burden on the applicant to follow the building plans unless the Zoning Commission says otherwise. DCRA would put the burden on the Zoning Commission to say which plans must be followed and which do not. Because the Ordering language includes no specific conditions on parking for the East Campus, DCRA's argument would allow AU to build no underground parking or as much underground parking as it likes – despite the fact that the plans for the one-story underground garage are referenced in the Order's Findings of Fact (Paragraph 145).

ANC 3D believes DCRA's interpretation of the Zoning Code is incorrect, if not convoluted. There simply are no conditions in the Order which give the University the flexibility to not follow the plans for the underground garage submitted as part of its Further Processing

application. In fact, the Order specifically references the plans for the one-story underground garage in the Finding of Facts.

DCRA further argues that Section 3125.7 does not apply in cases involving the Zoning Commission because these are rules for the BZA. However, Section 3035.5 specifically indicates that Section 3125.7 is binding on the Zoning Commission for Special Exception zoning cases involving College and University uses. Section 3035.5 requires the ZC to apply the same standards for the processing, review and approval of a Further Processing as followed by the BZA – and in this case, this means that plans submitted are plans approved unless specifically ordered otherwise.

II. ZA Decision Sets Alarming Precedent That Significant Changes To Building Plans Can Be Made Without Review By DC Zoning Authorities

The ZA approved the permit in July, 2014 saying AU did not have to adhere to the plans submitted during a lengthy ZC review and that the plans for the garage were only presented for “illustrative” purposes. The ZA did not argue that this was a minor modification, as now suggested by DCRA in the agency’s motion to strike the pre-hearing statement of the Spring Valley-Wesley Heights Citizens Association. The ZA supported his decision by stating that (1) there were a large number of exhibits in the Campus Plan case and that (2) the university should not be bound by “isolated exhibits especially when there may be contradictory information in other exhibits.”

We believe the ZA’s decision is fundamentally flawed, sets a dangerous precedent for other zoning cases, and that his rationale has no basis in the facts.

Of course, there would be many exhibits, including architectural plans and drawings, for a campus plan that proposed nearly 1 million gsf of new development. The university’s drawings and plans for the underground parking garage – like all other plans submitted for the Special Exception Further Processing application – were not “isolated” exhibits, but elements of a comprehensive presentation by AU mandated by DC Zoning law.

The Zoning Code clearly states in Section 210.4 (a) that a university is required to submit a detailed plan for campus development that includes “buildings and parking and loading facilities” as a prerequisite for requesting a Special Exception for Further Processing. AU’s submission of these detailed plans was not an option or simply an exercise in providing nice-

looking illustrations that would be discarded. They are a requirement of the city's zoning rules and are fundamental to ensure transparency in zoning determinations.

Moreover, the ZA is simply wrong when he suggests that there are other exhibits in the case file that contradict the drawings submitted for the underground parking garage. He has never been able to identify such contradictory drawings because they do not exist. The case record is very clear: Although AU revised its plans for other aspects of the East Campus and its overall Campus Plan, at no time did AU submit any additional information or testimony that the parking garage would be anything but one level.

Moreover, the Order specifically references the drawings showing the one-story underground garage and bus turn-around in Paragraph 145 of the Findings of Fact.

In its opposition filed with the BZA, AU makes the following arguments to justify the ZA's decision: (1) the number of levels of parking were not contested during the Further Processing case; and (2) the 2-level parking garage will not change the East Campus in any "publicly perceptible way" because the change in the underground structure will not impact the above-grade appearance of the East Campus.

On the question of the underground garage not being a contested issue: AU officials met with residents and the ANC for 19 months prior to submitting its formal Campus Plan and Further Processing for the East Campus to describe the scope of the plans, including parking at the site. During these meetings, the ANC and residents expressed concern about the high water table at the site and the potential impact of groundwater flow that might damage homes downhill and immediately adjacent to the site. Residents also had expressed concern about bus idling directly behind residents' homes at the existing surface parking lot – part of which would be maintained as part of the East Campus complex.

So, the ANC and residents were pleased to learn that the underground parking garage would be only one level underground and that it would include a bus turn around to remove buses from the remaining surface parking lot. So, if the issue was not contested as part of the hearing process, it is because AU gave every indication through its drawings, plans, and testimony that it was being responsive to residents' concerns. Had AU proposed a 2-story underground parking lot with no bus turn-around, it would have been a contested issue in the proceedings.

ANC 3D takes issue with AU's argument that the ZA has the authority to approve such a significant change in the building plans on the basis that it will not alter the development in any "publicly perceptible way." In making this argument, AU seeks to carve out a new standard for Campus Plan and second stage Further Processing review – that universities are free to revise building plans after they have been approved if in the university's view the change is "not publicly perceptible" or if the change "has no impact on the above grade appearance of the development." You won't find this language in Section 210 or any other section of the Zoning Code applying to Campus Plans and Special Exception Further Processings.

Subsection 210 outlines the standards for review and is very clear in stating that a college or university structure shall be located in a residentially zoned neighborhood "so that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions."

ANC 3D believes that it is the responsibility of the ZC to determine if expanding the garage to two underground levels is consistent with the zoning review standards set out in Subsection 210. This is not the forum to discuss whether the 2-story underground parking garage creates objectionable conditions. This hearing is focused on whether the ZA acted within his authority and we believe he has not.

III. Case Record Shows ZA Decision Is Fundamentally Flawed

The record of this case is very clear.

1. On March 18, 2011, AU submitted its Further Processing for the East Campus which specifically stated the site would include a "single below grade level of parking." (Exhibit 8) (*Attachment A*)
2. In May, 2011, AU submitted diagrams and plans to the Zoning Commission showing the single level of parking underground. (Exhibit 50) (*Attachment B*)
3. On June 9, 2011 AU representatives testified before the ZC that the underground parking garage would be one level. They supplemented their oral testimony with specific drawings and detailed plans. (Exhibit 242) (*Attachment C*)
4. Zoning Order 11-07 was issued in May, 2012 and approved the East Campus Further Processing specifically referencing in Paragraph 145 of the Findings Of Fact the exhibits

– Exhibits 8 and 50 –submitted by AU showing the one-story underground parking garage. (*Attachment D*)

5. There are no specific conditions in the Order that exempt AU from adhering to these plans. The Order, however, is specific on what changes to the structure are allowed – and the underground parking garage is not one of them.

ANC 3D was alerted at its April 2, 2014 meeting by residents that AU's construction plans for the East Campus might not be consistent with the Zoning Order. Although the ANC and residents asked for clarification, AU refused to provide any information to the ANC about the change in building plans. Finally, at its May 7, 2014 meeting, AU officials confirmed to the ANC that it planned to build a 2-story garage – instead of the one-story garage approved by the ZC – and argued that the change was a minor modification that could be approved by the ZA. In this case, the ZA never argued that the permit was issued on the basis that the change represented a minor modification.

Nevertheless, Section 3129 of the Zoning Code establishes a process for approving minor modifications that was not followed in this case. DCRA argues these rules are “not practical” and that they have not been applied previously by the ZA. Whether practical or not, Section 3129 outlines the rules – and until they are changed, they are the rule of law and should be followed by the ZA.

Later on the evening of May 7, 2014, ANC 3D approved a resolution calling on the ZA to delay issuing a permit for the construction because the 2-story underground parking garage was inconsistent with Zoning Order 11-07 for the Further Processing of the East Campus.

Residents of the Westover Place Homeowners Corporation (WPHC), a townhome development immediately adjacent to the construction site, submitted a petition to the ZA on May 10, 2014 signed by 107 of 140 townhome owners expressing concern that the “deeper excavation at the site raises serious issues for adjacent homes that were not considered by the ZC, including damage to foundations stemming from underground water flow.” They asked the ZA to delay issuing the construction permit and require that AU submit a request to the ZC to modify the plans.

In their petition, the WPHC homeowners noted that the city's zoning rules would require any homeowner seeking a building permit to go back to the ZC or to the BZA to seek a modification if their changes were of the scale planned by AU. The ANC and a group of

residents subsequently met with the ZA on May 14 to discuss the issue and provide the information included in the case record.

IV. Conclusion

ANC 3D believes the ZA decision in this case is fundamentally flawed precedent that is not justified by the record in either the zoning case or the Zoning Order. If the BZA permits this far-reaching ZA opinion, every set of plans presented in zoning cases could be altered after approval without review by the city's zoning boards. We believe the drawings presented for review and approval are binding under Section 3125.7, especially given the absence of any alternative drawings or testimony provided by AU during the lengthy proceedings before the ZC or any other condition imposed by the ZC that would specifically exempt AU from following the plans submitted and approved.

ANC 3D asks the BZA to grant our appeal and recommends that AU be required to file for a modification of the ZC Order No. 11-07 to allow for a public review of plans for the 2-story underground parking garage consistent with the standards set out in Subsection 210 of the Zoning Code. Furthermore, ANC 3D requests the BZA give this ANC recommendation the great weight to which it is entitled under DC Statute 1-309.10(d)(3).

Excavation work has already begun at the site. So, ANC 3D also asks the BZA to require the DCRA to issue a stop work order on all excavation and foundation to grade construction as it considers the issues in this case. If AU is allowed to continue its current construction, the 2-story underground garage will already have been built.

Thank you for your consideration.

ATTACHMENT A

EXHIBIT 8

**NARRATIVE FOR FURTHER
PROCESSING APPLICATION
SUBMITTED BY AMERICAN
UNIVERSITY FOR DEVELOPMENT
OF THE EAST CAMPUS
MARCH 18, 2011
Z.C. CASE NO. 11-07**

SECTION 9

FURTHER PROCESSING APPLICATIONS FOR DEVELOPMENT OF THE EAST CAMPUS, THE NEBRASKA HALL ADDITION, AND THE MARY GRAYDON CENTER ADDITION

9.1 DEVELOPMENT OF THE EAST CAMPUS (FORMER NEBRASKA AVENUE PARKING LOT SITE)

9.1.1 Description of East Campus Property and Surrounding Area

The proposed East Campus will be located on an 8.1-acre parcel that is located across Nebraska Avenue from the central campus and is currently used as a surface parking lot with approximately 900 surface parking spaces. Those parking spaces are used by AU faculty, staff, and students and visitors to the campus. The East Campus property is bound by Massachusetts Avenue to the north, the Westover Place townhouse community to the east, New Mexico Avenue to the south, and Nebraska Avenue to the west. The headquarters for the U.S. Department of Homeland Security is located to the north of the property directly across Massachusetts Avenue. Numerous large apartment and condominium buildings are located along Massachusetts Avenue to the east of the property. A significant number of AU students live in these buildings and walk along Massachusetts Avenue to the AU campus.

9.1.2 Summary of Proposed East Campus Development

The university proposes to construct six new buildings on the East Campus. These buildings will include: four new residential buildings that will provide approximately 770 new residential beds; a new administrative building that will be located at the intersection of Nebraska and New Mexico avenues; and an administrative and academic building located on the eastern end of the property, which will serve as a buffer between the institutional uses on the East Campus and the Westover Place townhouse community on the adjacent property.

Development of the new East Campus will include a total of approximately 329,000 gross square feet of new space. Of the new building area, 245,100 square feet will be dedicated to student housing. The northern part of the East Campus, with frontage along Massachusetts Avenue and adjacent to Ward Circle, is not included in the Further Processing application. That area will remain a surface parking lot with approximately 200 parking spaces and will be reserved for a future signature academic building, similar to the Katzen Arts Center. The 2011 Plan does not anticipate that such a signature academic building will be constructed in the period of 2011–2020.

9.1.3 Functional, Sensitive, and Appropriate Design

(a) Development Goals and Results of Community Dialogue Process

The applicant and its design team have engaged in extensive dialogue with members of the surrounding community, including residents of the Westover Place townhouse community, regarding development of the East Campus. In a presentation at the September 28, 2010, Community Taskforce Meeting, the project architects noted that development of the East Campus will be successful if it:

- promotes student life, success equal to the academic reputation of AU
- identifies the student as the center of the campus success
- contributes to the diversity of housing options on campus
- grows international student accommodations
- is a sensitive neighbor to its surroundings
- embraces a sustainable strategy consistent with the campus initiative
- provides an expanded campus that is safe for students and residents

- provides flexible facilities that can adapt to changing campus needs over time
- promotes an architectural character consistent with the existing campus

The university has sought to address the following community concerns as it has designed and refined the proposed buildings on the East Campus:

- increased noise in the community due to the proposed residential use on the East Campus
- the proposed location of the new residential structures on the former parking lot
- issues related to pedestrian safety for the new students who will be crossing Nebraska Avenue from their residence halls to campus on the west side of Nebraska Avenue and concerns about current patterns of mid-block pedestrian crossings of Nebraska Avenue
- enhanced traffic from personal vehicles and trucks that will be coming to the East Campus
- the amount of density proposed on the East Campus in terms of the number of students to be housed and the size and scale of the buildings proposed
- the visual impact that the proposed development will have on adjacent properties

Specific steps that have been taken by the university in response to these concerns include:

- a significant reduction in the number of beds proposed on the East Campus, from an initial proposal of 1,000 beds to the current proposal for 770 beds
- a re-orientation of the residential buildings in order to lessen the visual impact on the adjacent residential properties and to remove all windows on the residential buildings that would have views toward the adjacent residential properties
- the creation of an academic/administrative building that will serve as a buffer, both visually and in order to block noise, between the residential uses on the East Campus and the adjacent residential properties
- the relocation of the entrance to the underground parking and loading facilities to a point that is further from the East Campus boundary with the adjacent residential property

All of the buildings on the East Campus will

be designed and constructed in order to achieve LEED Gold certification. Plans, elevations, and drawings of the proposed East Campus development, as well as photographs of existing conditions, are attached as Exhibit 21.

(b) Detailed Description of the Proposed East Campus Development

Entrance to the East Campus will be marked by a new administrative building located at the intersection of Nebraska Avenue and New Mexico Avenue. This administrative building (labeled as Building No. 5 in the site plan provided in Exhibit 21) is intended to house a new visitors center, other administrative offices, and 3,000 square feet that will be reserved for retail uses that are intended to cater to the residents of the East Campus. This building will be four stories tall with a measured building height of approximately 54 feet tall. The architectural character of this building, including its curved entrance features and tower element at the corner of the intersection of Nebraska and New Mexico avenues is intended to evoke the architectural character of the McKinley Building on the campus west of Nebraska Avenue and helps connect the campus as one crosses Nebraska Avenue. The exterior of this building will include glass and light-colored pre-cast in an effort to be responsive to the limestone appearance of the buildings located along the west side of Nebraska Avenue (the Ward Circle Building, Hurst Hall, and the old SIS building).

The first student housing building on the East Campus (identified as Building No. 1 in the materials included in Exhibit 21) is located along Nebraska Avenue, to the north of Building No. 5. This building will be six stories tall, with a measured building height of approximately 62 feet. The height, mass, and setbacks of this building (along with Building No. 5) have been carefully studied to assure that the appearance of this building is consistent with the appearance of the buildings along Nebraska Avenue on the campus west of Nebraska Avenue. The goal has been to maintain the character of this part of Nebraska Avenue as a leafy, broad avenue. As shown in a site section through Nebraska Avenue, included in Exhibit 21, Building No. 1 on the East Campus will be setback from the Nebraska Avenue curb approximately 70 feet. The buildings along the west side of Nebraska Avenue are setback approximately 85 feet from the curb along Nebraska Avenue.

The streetscape treatment of Nebraska Avenue on the East Campus has also been carefully studied in order to create an inviting and active pedestrian experience, while also creating landscape and hardscape barriers to prevent mid-block pedestrian crossings of Nebraska Avenue. As shown in a section along Nebraska Avenue in Exhibit 21, the existing row of mature street trees that currently shield the existing parking lot on Nebraska Avenue will remain in a six-foot planting strip. Adjacent to the planting strip is an eight-foot sidewalk and then a vegetative buffer of approximately 38 feet. This vegetative buffer will include enhanced understory planting that will provide views to the first floor uses in Building No. 1, but will also restrict pedestrian movement from the sidewalk to the 24-foot-wide promenade area that is adjacent to Building No. 1. The existing roadway lighting will be replaced with 14-foot-tall ornamental lights that are more in scale with the pedestrians walking along on the adjacent sidewalk.

Building No. 1 will include approximately 280 residential beds. The ground floor uses will include approximately 11,000 square feet of retail space. There will be no central cafeteria in any of the residential buildings on the East Campus. The first floor of Building No. 1 also includes meeting space for residential life activities, which will have direct access to the promenade along Nebraska Avenue, and faculty and staff apartments that will face a landscaped quad that is bound by the other residential buildings on the East Campus. The residential units on floors 2–6 will be a mix of unit types.

Building No. 2 is located behind Building No. 1 (the administrative building located at the intersection of New Mexico and Nebraska avenues). Building No. 2 will be five stories tall, with a measured building height of approximately 54 feet. This building will include approximately 140 residential beds. Building No. 2 has frontage along New Mexico Avenue and will define the southern border of the East Campus. The proposed streetscape treatment along New Mexico Avenue has also received significant attention from the university's design team. In response to concerns raised during the community dialogue process, the university has removed the university-related retail uses that were initially proposed in the street level of Building No. 2. In addition, the university has re-designed the New Mexico Avenue elevation of Building No. 2 so that the vehicular entrance to the below-grade parking and loading can occur in the same location

as the existing curb cuts on New Mexico Avenue.

Building No. 3 is a five-story residential building, approximately 54 feet tall, that is located in the center of the East Campus. It is flanked by courtyards to the south and to the north that are 165 feet wide and are intended to provide active and passive recreation spaces for the residents of East Campus. The ground floor of this building will include meeting space and staff/faculty apartments. In total, the building will include approximately 157 residential beds. In response to concerns that were raised by the Westover Place residents, the orientation of this building, as well as Building Nos. 2 and 4, has been shifted so that all windows from dormitory rooms now face into one of the courtyards and not toward the Westover Place community.

Building No. 4 is also a five-story residential building, approximately 54 feet tall, that is located on the northern end of the residential core of the East Campus. This building will include approximately 195 beds with faculty and staff apartments on the ground floor. Just as in Building No. 3, all windows from the dormitory rooms will face the courtyard and the surface parking lot to the north.

Building No. 6 is an administrative/academic building that has been sited on the property in order to provide a physical buffer between the residential uses on the East Campus and the Westover Place community to the east. Building No. 6 will be two-and-a-half stories tall, with a measured building height of approximately 34 feet. The proposed height of Building No. 6 is approximately the same as the height of the townhomes in the Westover Place community. The intended uses of the building will include meeting space, residential life activities space, offices, and academic space. In response to comments from OP and the Westover Place residents, Building No. 6 has been set back from the property line with the Westover Place community a minimum distance of 40 feet, but the majority of the setback ranges from approximately 55 to 78 feet.

The appearance of Building No. 6 from Nebraska Avenue is intended to convey that the use of this building is not residential, so the materials on the west façade of the building are similar to those found on Building No. 5. The entrance to Building No. 6 also appears to peek out from behind Building No. 2, in order to announce to students, faculty, and staff the location of this administrative/academic building. The university

and its design team continue to refine the potential façade materials for the east elevation of the building (the elevation of the building that faces Westover Place), in order to create an appropriate transition to the Westover Place townhouses.

The existing buffer area between Building No. 6 and the Westover Place community is currently populated with a large number of significant trees as shown in Exhibit 21. The university will augment this area with a landscaped berm, which further reduces the appearance of Building No. 6 from the Westover Place community. Additional tree plantings in the understory of the landscaped buffer will be made in order to create a well designed and conceived landscape buffer that will be effective all year long.

The proposed development of the East Campus will result in a reduction in the overall number of vehicle parking spaces that will be provided on the property. There are currently 900 parking spaces on the East Campus. Construction of the proposed East Campus will result in only 500 parking spaces being located on the East Campus, 300 spaces located in a single below-grade level of parking that will be located under Building Nos. 1–6 and 200 spaces on the remaining surface parking lot adjacent to Massachusetts Avenue and Ward Circle. Significant numbers of bicycle parking spaces will also be provided for residents of East Campus, as well as university staff members who will work on the East Campus in the below-grade parking level. In addition, numerous bicycle parking spaces and facilities will be located throughout the East Campus development.

Loading facilities for all six buildings will also be located in this below-grade level. Access to the parking and loading facilities will occur from New Mexico Avenue, in the approximate location of the existing entrance to the Nebraska Avenue parking lot. The existing curb cut and vehicular exit from the parking lot onto Nebraska Avenue will be removed as a result of the development of the East Campus. A new right-turn-in- and right-turn-out-only entrance/exit from the East Campus, which will be accessible from the six buildings and the remaining surface parking lot, onto Massachusetts Avenue will be created as a result of the proposed development of the East Campus. This entrance/exit will be aligned with the entrance to the Department of Homeland Security's parking lot entrance/exit on the other side of Massachusetts Avenue.

9.1.4 Development of the East Campus Is not Likely to Become Objectionable to Neighboring Property Because of Noise, Traffic and Parking, Number of Students/Faculty/Staff, or Other Objectionable Conditions

(a) No Adverse Impacts Related to Noise Will Occur as a Result of the East Campus Development

As noted above, the residential buildings have been oriented in such a way that no windows on the upper floors of the buildings will face the Westover Place community. In addition to mitigating the visual impact of these buildings, this orientation also reduces the potential amount of noise generated by the residential use. The location of Building No. 6 will help block any noise from activities that occur on the two courtyards located in the center of the East Campus. In addition, there will be no direct entrance to the ground floor of Building No. 6 on the eastern elevation of the building. There will also be no balconies or terraces on the eastern elevation of this building. These design features were created to address concerns from the Westover Place community regarding the potential noise that may arise from Building No. 6.

(b) No Adverse Impacts Related to Traffic and Parking Will Occur as a Result of the East Campus Development

The Transportation Report and Technical Analysis (Exhibit 22) contains a detailed analysis of transportation impacts of the 2011 Plan. Included is a determination of the impact of development of the East Campus. This report and analysis focused on the major differences in future traffic conditions with and without development of the East Campus and specifically addressed:

- the increases in pedestrian traffic crossing Nebraska Avenue due to new building construction
- the decreases in pedestrian traffic crossing Nebraska Avenue due to the loss of parking spaces on the Nebraska Avenue parking lot
- the change in how drivers will approach and depart parking on the East Campus generated by the removal of the right-in/ right-out driveway on Nebraska Avenue and its replacement on Massachusetts Avenue

To account for these changes, the following pedestrian and vehicular trips were added to the future traffic projections:

- Pedestrian trips were generated for several sources, notably the additional beds in the residence halls but also for the new admissions welcome center and campus-related retail use. Trips for new residence halls were based on counts of existing on-campus residence halls. Trips for the proposed retail uses were based on activity data from the existing campus store.
- Some pedestrian trips were removed from crosswalks based on the loss of parking spaces on the Nebraska Avenue surface lot. These were determined by examining vehicular trip generation rates and assuming one person per car would cross Nebraska Avenue.
- The net increase in pedestrian trips was split between the crosswalks over Nebraska Avenue at New Mexico Avenue (75 percent) and Ward Circle (25 percent). The split was based on the layout of the East Campus and the likely destinations of pedestrians on the Main Campus.
- Changes to vehicular volumes were made based on existing trip counts at the driveway on Nebraska Avenue, and projected change on approach patterns of drivers that would take advantage of the new right-in/right-out at Massachusetts Avenue.

The future capacity analyses results, comparing traffic models both with and without the development of the 2011 Plan, came to the following conclusions:

- The intersection of Nebraska Avenue and New Mexico Avenue will operate under acceptable conditions. This is due to the existing traffic signal timing, which separates turning vehicles and pedestrians. Thus, the increased crosswalk traffic will not generate detrimental impacts.
- Additional pedestrians using the crosswalk over Nebraska Avenue at Ward Circle will generate impacts to vehicular delays. These delays can be mitigated through implementing changes to the traffic signal operation that separates the vehicular turning and pedestrian crossing movements (see mitigation measures below).

- Although the traffic model results show acceptable conditions at all intersections, the design of the East Campus and its surrounding roadways can incorporate some design measures to help further reduce impacts by organizing crosswalks, pedestrian facilities, and bus stop locations. These design elements are discussed in the Transportation Report. All recommendations that occur on the East Campus have been incorporated into its design.
- As described in the Technical Analysis, with development of the 2011 Plan, the number of pedestrians crossing Nebraska Avenue at the crosswalk at the intersection of New Mexico Avenue and Nebraska Avenue will be 203 and 473 per hour during the AM and PM peak hours, respectively. This equates to an average of 6 and 13 pedestrians during each "Walk" phase for the crosswalk over Nebraska Avenue.
- Similarly, the number of pedestrians crossing Nebraska Avenue at Ward Circle adjacent to East Campus is expected to be 376 and 509 during the AM and PM peak hours, respectively. This equates to an average of 10 and 14 pedestrians during each "Walk" phase for the crosswalk over Nebraska Avenue.

The following summarizes the recommendations in the Transportation Report, aimed at mitigating the impacts to vehicular delay and congestion, and changing the orientation of transportation facilities to help reduce pedestrian/vehicular conflicts.

- elimination of the right-in/right-out driveway on Nebraska Avenue to the Nebraska Avenue parking lot (helps reduce jaywalking)
- inclusion of a landscaped buffer along Nebraska Avenue in the East Campus development (helps reduce jaywalking)
- alteration of the traffic signal operations at the southwestern corner of Ward Circle across Nebraska Avenue to de-conflict right-turning vehicles from pedestrians in the crosswalk (reduces vehicular delay predicted in traffic models)
- installation of a pedestrian-activated traffic signal on Massachusetts Avenue south of Ward Circle at the new right-in/right-out

driveway for the East Campus development (facilitates pedestrian crossings and reduces vehicular delay at Ward Circle)

- consolidation of bus stops to take advantage of the new pedestrian traffic signal and deter potential jaywalking to reach bus stops

The East Campus will also include the following measures as part of the overall Campus TDM program:

- All new residence halls will incorporate quality long-term bicycle storage for student use.
- Short-term bicycle parking at the ground level will be included and will meet DDOT design standards.
- A space for a future Capitol Bikeshare location will be located on the East Campus.
- The existing Zipcar spaces on the Nebraska Avenue surface lot will be available during construction of the East Campus in a temporary location and maintained with new Zipcar spaces constructed in the East Campus development.
- Information kiosks incorporating electronic message boards will be included in lobbies of new residential buildings.
- Incoming freshmen living on campus will be provided with a packet of information during orientation and/or move-in marketing transportation options.

(c) No Adverse Impacts Related to the Number of Students/Faculty/or Staff Will Occur as a Result of the East Campus Development

The university and its design team believe that the creation of 770 residential beds on the East Campus can be accomplished without diminishing the quality of life of adjacent property owners and without creating adverse impacts on the neighboring property owners through three concepts that have guided the development of the East Campus: (i) the design of the buildings; (ii) the creation and maintenance of a physical and landscaped buffer between the proposed buildings and the adjacent Westover Place community; and (iii) the university's residential life policies.

The university initially proposed a series of residential buildings on the East Campus that included approximately 1,000 residential beds. During the community dialogue process, residents

of the adjacent communities voiced concern about the ability of the East Campus to house any undergraduate students. These residents said that they would like to see only administrative and academic uses on the East Campus and that the university should construct zero residential beds on the East Campus. After numerous meetings and discussions with these residents, the university has agreed to reduce the number of beds that it is proposing on the East Campus to 770. This 23 percent reduction, voluntarily accepted by the university, allows for the university to address its goals of providing new and varied types of housing to its undergraduate students and also addresses the concerns of the adjacent community regarding the potential negative effects of housing undergraduate students on the East Campus.

The siting, orientation, and uses of the proposed buildings truly mitigate the impacts that 770 residential beds on the East Campus will have on the adjacent property owners. As noted above in the section regarding the mitigation of noise impacts, the residential component of the East Campus development is effectively shielded from the nearby residential communities. The number of faculty, staff, and visitors that will come to the visitors center in Building No. 5 and to the academic and administrative uses in Building No. 6 will have virtually no impact on the adjacent residential communities.

The significant landscaped buffer between the Westover Place property line and Building No. 6 truly mitigates the impact of the East Campus development on the Westover Place community. This buffer area already includes a significant number of trees of substantial size that will shield views of the new buildings for a majority of the year. In addition, the university has agreed to undertake significant additional plantings (including evergreen and deciduous plantings) in the understory of the existing trees and landscape material. This buffer area will also be contoured and landscaped in a manner that will make it unlikely that students will use this area for passive or active recreational activities.

As discussed previously in Sections 5 and 7 of this statement, the Residential Life policies of the university play a significant role in the overall experience that students have while enrolled at American University. All residents are required to sign a Housing and Residence Life

license agreement, which, along with the Student Conduct Code, sets expectations and guidelines for appropriate student behavior. Each residential building will include approximately 24 Residential Life staff who will enforce these guidelines.

For all of these reasons, the proposed 770 residential beds and the faculty and staff who will work and live on the East Campus will not adversely impact adjacent properties, including the residents of the Westover Place community who live closest to the property line with the university.

(d) No Adverse Impacts Related to Other Objectionable Conditions Will Occur as a Result of the East Campus Development

To help ensure that the proposed development of the East Campus does not create any objectionable impacts during the construction of the East Campus, the university will work with all impacted stakeholders to create a construction management plan.

9.1.5 Certification of FAR

In conjunction with this request for further processing and pursuant to 11 DCMR §210.8, the university certifies that the addition of approximately 329,000 square feet of FAR associated with the development of the East Campus will result in the entire campus having a FAR of approximately 0.8, which is within the approved FAR for the campus as a whole under both the existing and proposed campus plans.

9.2 NEBRASKA HALL ADDITION

9.2.1 Description of Nebraska Hall Property and Surrounding Area

The Nebraska Hall property is located to the northwest of Ward Circle, north of the Katzen Arts Center, and has frontage along Nebraska Avenue. The existing Nebraska Hall residential building includes approximately 115 beds and is three stories tall (as viewed from Nebraska Hall). The grade of the property changes such that there is a partial below-grade floor on the back of the existing building that is not visible from Nebraska Avenue. The existing Nebraska Hall residential building is setback approximately 104 feet from Nebraska Avenue and includes a driveway and circular drop-off area in front of the existing building. The existing site includes a surface parking lot with approximately 25 parking spaces. The existing

building is set back approximately 45 feet from 44th Street in the rear.

The Ft. Gaines community is located immediately to the east of the Nebraska Hall property. This community, which includes homes on 44th, Sedgwick, and Sunnyvale streets, consists primarily of single family homes. The Temple Baptist Church is located immediately to the north of the Nebraska Hall property on the same side (the western side) of Nebraska Avenue. The Department of Homeland Security's (DHS) Nebraska Avenue complex is located on the eastern side of Nebraska Hall, directly across from the property. The television studios and offices of NBC 4 are located to the north of the DHS facility and the National Presbyterian School and Church is located further to the north along Nebraska Avenue.

9.2.2 Functional, Sensitive, and Appropriate Design

(a) Development Goals and Community Dialogue Process

The proposed addition to Nebraska Hall (the "Addition") is designed to mesh seamlessly with the existing Nebraska Hall. The residential facilities provided in the Addition are designed to be the university's premium housing, primarily for juniors and seniors. The proposed Addition will allow the university to achieve its goals of enhancing the undergraduate student housing experience at AU, with minimal impacts on neighboring residences.

Representatives of the university have met a number of times with representatives of the Ft. Gaines community (including residents of the adjacent 44th and Sedgwick Streets, NW) in order to review the proposed plans for the Nebraska Hall Addition and create conditions related to the construction and operation of the expanded Nebraska Hall.

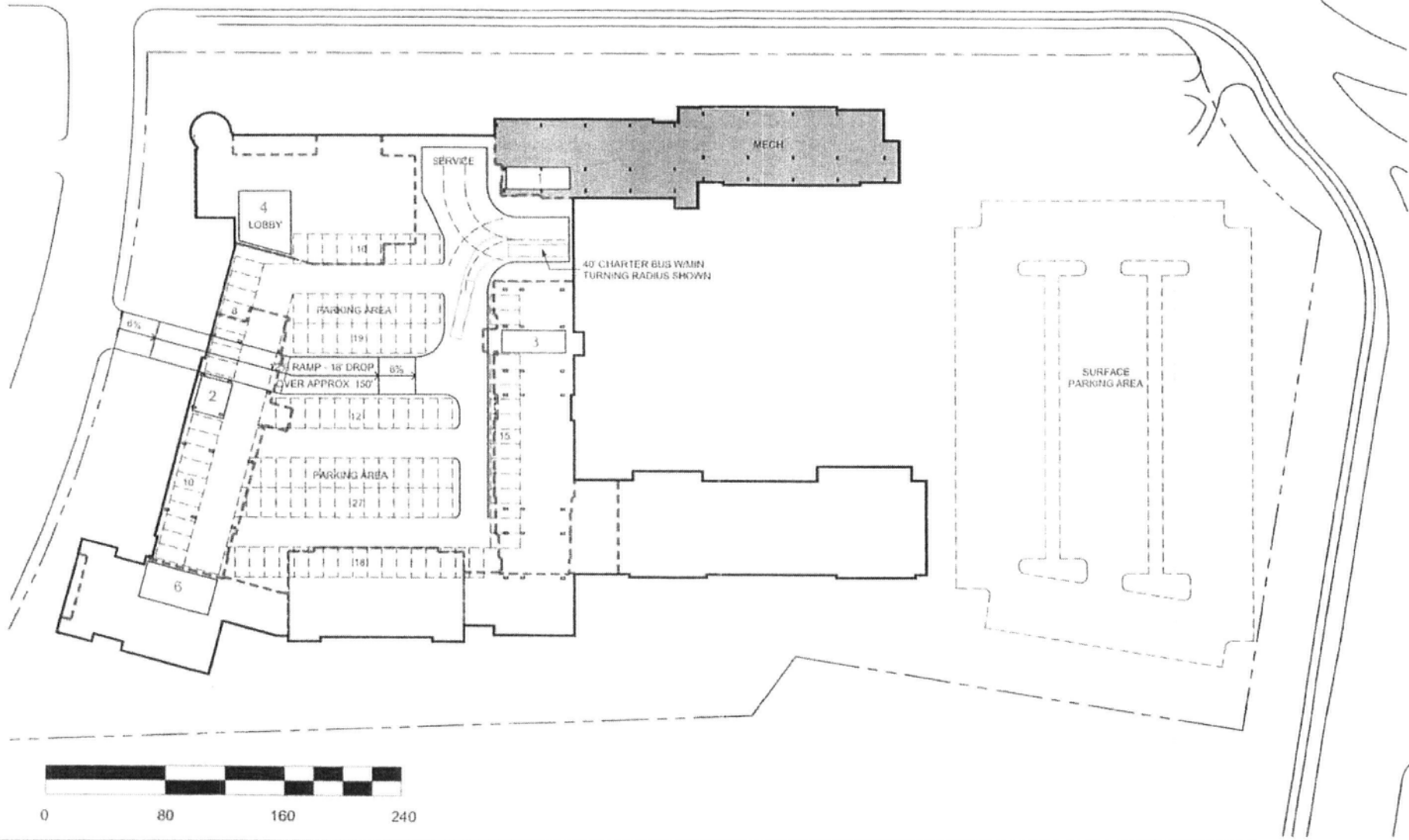
(b) Detailed Description of the Nebraska Hall Addition

As depicted in the materials included in Exhibit 19, the Addition will be constructed on the north end of the existing Nebraska Hall building on the site of the existing surface parking lot. The Addition will provide beds for 120 students, with a kitchen in each residential unit (which includes 3 or 4 beds). The appearance and scale of the Addition has been carefully designed to relate

ATTACHMENT B

EXHIBIT 50

**AMERICAN UNIVERSITY EAST
CAMPUS DEVELOPMENT GARAGE
PLAN AS SUBMITTED TO
ZONING COMMISSION
MAY 20, 2011
Z.C. CASE NO. 11-07**



ATTACHMENT C

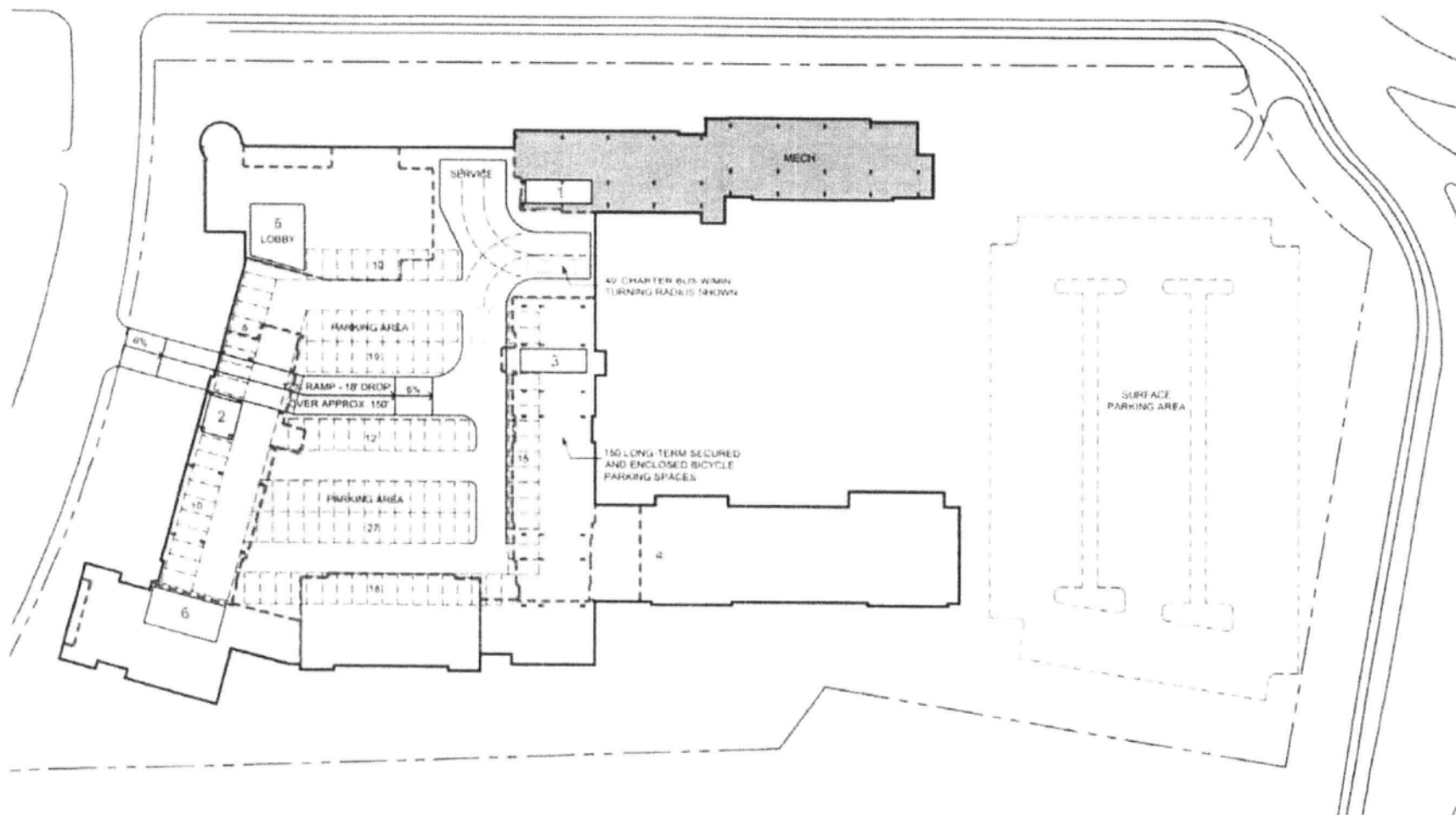
EXHIBIT 242

**AMERICAN UNIVERSITY
2011 CAMPUS PLAN
EAST CAMPUS – SERVICE AND
PARKING LEVEL PLAN
AS SUBMITTED TO
ZONING COMMISSION
JUNE 9, 2011
Z.C. CASE NO. 11-07**



AMERICAN UNIVERSITY 2011 Campus Plan

East Campus – Service & Parking Level Plan



ATTACHMENT D

**PARAGRAPH 145, PAGE 31
ZONING COMMISSION
ORDER NO. 11-07**

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.)