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December 29, 2006

By Hand Delivery

Carol J. Mitten, Chairperson
District of Columbia Zoning Commission
Office of Zoning
441 4th Street, NW, Suite 210
Washington, DC 20001

2006 DEC 29 AM 10:08

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**Re: Zoning Commission Case Nos. 06-11 and 06-12
The George Washington University Foggy Bottom Campus Plan: 2006-2025
and related First-Stage PUD and Map Amendment
Proposed Findings of Fact, Conclusions of Law, and Conditions of Approval**

Dear Chairperson Mitten and Members of the Commission:

Enclosed herein, as requested by the Commission, are the Applicant's proposed Findings of Fact, Conclusions of Law, and Conditions of Approval for the above-referenced applications.

The Applicant believes that the information included in the record of this case fully satisfies the requirements for approval and looks forward to the Commission's decision on this case at the January 17, 2007 Special Public Meeting.

Very truly yours,

Maureen Dwyer
Maureen Dwyer

David Avitabile
David Avitabile

Enclosure

NOTE: COPY -
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ZONING COMMISSION
District of Columbia

CASE NO. 06-12
EXHIBIT NO. 218

~~ZONING COMMISSION
District of Columbia~~

~~CASE NO. 06-11
EXHIBIT NO. 24~~

ZONING COMMISSION
District of Columbia
CASE NO.06-12
EXHIBIT NO.218

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of this letter and enclosures were delivered by hand delivery on December 29, 2006.

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**APPLICANT'S PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
CONDITIONS OF APPROVAL**

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GOVERNMENT OF THE DISTRICT OF COLUMBIA

ZONING COMMISSION ORDER NO. 06-11/06-12

**D.C. Case No. 06-11 (The George Washington University – Special Exception Application
for a Campus Plan) & No. 06-12 (The George Washington University – First Stage Planned
Unit Development and Related Zoning Map Amendment)**

Pursuant to proper notice, the Zoning Commission for the District of Columbia held a series of public hearings on six dates in Fall 2006 to consider an application by The George Washington University for (1) special exception approval pursuant to 11 DCMR § 3104, and in accordance with § 210 of the Zoning Regulations, of the *Foggy Bottom Campus Plan: 2006 – 2025* (“Campus Plan”); and (2) review and first-stage approval of a planned unit development (“PUD”) and related amendment to the Zoning Map of the District of Columbia pursuant to 11 DCMR ch. 24 (“Applications”). The Applications for approval of the Campus Plan and the PUD with the related Map Amendment were consolidated and heard simultaneously. The public hearings were conducted in accordance with the provisions of 11 DCMR § 3022. The Zoning Commission APPROVES the Applications, subject to the conditions below.

HEARING DATES: September 14, 21, 25, & 28, October 11, and November 30, 2006

DECISION DATE: January 17, 2006

FINDINGS OF FACT

1. On February 16, 2006, The George Washington University (“GW”, the “University”, or the “Applicant”) filed an application for special exception review and approval of the *Foggy Bottom Campus Plan: 2006 – 2025* (the “Campus Plan”). Ex. 13. The special exception relief requested was self-certified, pursuant to 11 DCMR § 3113.2. Ex. 3. The Application was further updated by a sixty-day pre-hearing submission filed on July 13, 2006; a twenty-day pre-hearing submission filed on August 25, 2006, and several additional submissions filed throughout the course of the six public hearings in response to requests for further information by the Zoning Commission. See Ex. 31 (Pre-hearing Submission, July 13, 2006), 43 (Twenty-Day Submission, Aug. 25, 2006), 89 (Direct Testimony, Sept. 14, 2006), 99 (Sept. 21 Submission, Sept. 21, 2006), 205 (Proposed Conditions, Oct. 4, 2006), 221 (Rebuttal Testimony, Oct. 11, 2006), 230 (Nov. 15 Submission, Nov. 15, 2006), 240 (Post-Hearing Submission, Dec. 21, 2006).

2. The George Washington University Foggy Bottom campus consists of approximately 43 acres and includes those properties listed in Exhibit S of the Campus Plan. Within the Campus Plan boundaries, the property owned by the University is devoted to a variety of University uses, including but not limited to academic, administrative, medical, residential, campus life, athletic, commercial and investment purposes. The property within the Campus Plan boundaries is located in the R-5-D, R-5-E, C-3-C, and SP-2 Districts. The following properties included

ZONING COMMISSION
District of Columbia

within the Foggy Bottom Campus Plan boundaries: Square 39, Lot 803; Square 40, Lot 36; Square 41, Lot 40; Square 42, Lots 14, 51, 52, 54, 55, 820, 821, 822, 840; Square 43, Lot 26; Square 54, Lot 30; Square 55, Lots 28, 854, and 855; Square 56, Lots 30 and 31; Square 57, Lots 55 and 56; Square 58, Lots 1, 5, 6, 800, 801, 802, 803, and 804; Square 75, Lots 23, 33, 34, 41, 42, 46, 47, 858, 861, 863, 864, and 2001–2125; Square 77, Lots 5, 51, 59, 60, 845, 846, and 864; Square 79, Lots 5, 63, 64, 65, 806, 808, 853, 854, 861, and 862; Square 80, Lots 2, 26, 27, 28, 29, 30, 42, 43, 44, 45, 46, 47, 50, 51, 52, 54, 55, 800, 802, 811, 820, 822, 823, 824, 825, 828, 829, and 2001–2003; Square 81, Lot 846; Square 101, Lots 58, 60, 61, 62, 811, 839, 871, 874, and 879; Square 102, Lot 46; Square 103, Lots 1, 13, 14, 18, 26, 27, 28, 32, 33, 34, 35, 40, 41, 42, 809, 812, 813, 814, 816, 819, and 820; Square 119, Lot 26; Square 121, Lot 17, 819, and 820; Square 122, Lots 29, 824, and 825; and Square N-101, Lot 800. See Ex. 3.

3. Also on February 16, 2006, in conjunction with the Campus Plan application, the Applicant filed for first-stage approval of a Planned Unit Development and related Zoning Map amendment for the following properties: Square 39, Lot 803; Square 40, Lot 36; Square 41, Lot 40; Square 42, Lots 54 and 55; Square 43, Lot 26; Square 54, Lot 30; Square 55, Lots 28, 854, and 855; Square 56, Lots 30 and 31; Square 57, Lots 55 and 56; Square 58, Lots 1, 5, 6, 800, 801, 802, and 803; Square 75, Lots 23, 33, 34, 41, 42, 46, 47, 858, 861, 863, 864, and 2097; Square 77, Lots 5, 51, 59, 60, 845, 846, and 864; Square 79, Lots 63, 64, 65, 808, 853, 854, 861, and 862; Square 80, Lots 2, 26, 27, 28, 29, 42, 43, 44, 45, 46, 47, 50, 51, 52, 54, 55, 800, 811, 820, 822, 823, 824, 825, and 828; Square 81, Lot 846; Square 101, Lots 58, 60, 62, and 879; Square 102, Lot 46; Square 103, Lots 1, 13, 14, 27, 28, 33, 34, 35, 40, 41, 42, 809, 812, 813, 814, 816, 819, and 820; Square 121, Lot 819; and Square 122, Lots 29, 824, and 825. The first-stage PUD has a twenty-year term consistent with the Campus Plan and includes all properties owned by the University within the Campus Plan boundaries.¹ Ex. 2,3 (Z.C. Case No. 06-12).

4. During its meeting on April 20, 2006, the Zoning Commission unanimously voted to set down Case No. 06-12 for a hearing.² Notice of the public hearing, including a description of the subject property and the proposed development, was published in the D.C. Register on [date], [] D.C. Reg. [], and was mailed to all property owners within 200 feet of the subject property and to Advisory Neighborhood Commission (“ANC”) 2A.

5. On April 10, 2006, in conjunction with Z.C. Case Nos. 06-11 and 06-12, the District of Columbia Office of Planning (“OP”) proposed a text amendment to Section 210 of the Zoning Regulations to increase the allowable aggregate floor area ratio (FAR) in R-5-D and R-5-E zoned land within an approved campus plan from 3.5 FAR to 4.0 FAR. The text amendment was assigned Zoning Commission Case No. 06-19 and set down for public hearing on April 20, 2006

¹ Any properties within the Campus Plan boundaries acquired by the University after the Campus Plan and PUD filing and advertisement will not be included in the first-stage PUD unless the PUD is subsequently amended to include them. These properties will continue to be covered by the Campus Plan by virtue of their location within the Campus Plan boundaries.

² At the April 20 public meeting, the Commission observed that the authority to hear new campus plan applications is exclusively vested in the Zoning Commission under Section 3035 of the Zoning Regulations. Per Section 3035.6, the Commission applies the Board of Zoning Adjustment Rules of Practice and Procedure and, accordingly, Case No. 06-11 did not require a set down.

with Case No. 06-12. Prior to the public hearing, in a memorandum dated September 5, 2006, OP requested the withdrawal of the text amendment after concluding, based on discussions with the Office of the Attorney General, that the PUD process can be used together with Section 210 by the Zoning Commission to increase the allowable aggregate FAR in R-5-D and R-5-E zones from 3.5 to 4.5 and that a text amendment was therefore unnecessary. See Ex. 9 (Z.C. Case No. 06-19). At its September 11, 2006 public meeting, the Zoning Commission voted 5-0-0 to dismiss Case No. 06-19. Tr. Sept. 11, 2006 at 120-22, 126-27.

6. Parties in this proceeding included the Applicant, the Foggy Bottom Association (“FBA”) and the West End Citizens Association (“WECA”) as parties in opposition, and ANC 2A. The FBA and ANC 2A were jointly represented by counsel. The Zoning Commission held an initial public hearing on September 14, 2006, and held additional hearings on September 21, 25, 28, October 11, and November 30, 2006. The hearings were closed on November 30, 2006. At the public hearings, the Commission heard testimony and received evidence from the Applicant, FBA, WECA, ANC 2A, OP, the Historic Preservation Office (“HPO”), the District Department of Transportation (“DDOT”), and the Zoning Administrator (“ZA”), as well as from persons and organizations in support of and in opposition to the Applications.

7. As a preliminary matter, on August 31, 2006, the FBA sought to postpone the Applications pending the Applicant’s preparation of a consolidated environmental review. Ex. 49. The Applicant filed its opposition to the motion on September 11, 2006. Ex. 53. Based on the advice of the Office of the Attorney General, and for reasons set forth in the Conclusions of Law, the Commission denied the motion to postpone. Tr. Sept. 14, 2006 at 9-12.

8. Also as a preliminary matter, on August 31, 2006, the FBA sought dismissal of the Applications based on the Applicant’s failure to comply with Conditions 8 and 9(a) of BZA Order No. 16553-I, the current Campus Plan (which, respectively, imposed caps on students, faculty and staff, and imposed an on campus bed requirement). Ex. 48. The FBA alleged that this non-compliance barred any special exception application by the Applicant in accordance with the terms of Condition 20, which states in relevant part that “No special exception application filed by the university for further processing may be granted, unless the university proves that it has remained in substantial compliance with Conditions 1 through 19 set forth in this order.” Again, the Applicant filed its opposition to the motion on September 11, 2006. Ex. 54. The Applicant responded that Condition 20 did not, by its terms, apply to the instant application, which was for a new campus plan, not an application for further processing. Further, the Applicant’s response affirmed that the University was in compliance with the conditions of the existing Foggy Bottom Campus Plan. In particular, the University’s compliance with Condition 8 regarding student enrollment was confirmed by the report of the Zoning Administrator, dated September 14, 2006 and entered into the record as Exhibit 81, which was based on a voluntary independent audit of the University’s Foggy Bottom student enrollment. Based on the rationale that Condition 20 did not apply to an application for a new campus plan, the Commission denied the motion. Tr. Sept. 14, 2006 at 12-14.

9. GW is an independent academic institution chartered by the Congress of the United States in 1821. The University has been located in Foggy Bottom since 1912. Ex. 31.

10. The campus is surrounded by high-density zoning, including C-3-C to the north, C-4 to the east, R-5-E and SP-2 to the south, and R-5-E to the west. The campus is adjacent to the Foggy Bottom Historic District, located west of New Hampshire Avenue and zoned FB/R-3, and is also adjacent to the Central Employment Area, located east of 19th street, consisting of various high density zones. Ex. 31, 230 (Nov. 15 Submission, Exhibit G)

11. The Board of Zoning Adjustment (“BZA”) conditionally approved the University’s current Campus Plan in BZA Application No. 16553 (“Campus Plan 2000-2009”) BZA Order No. 16553-I, April 26, 2004. During that process, members of the ANC 2A and FBA, various witnesses and OP requested that the BZA require the University to provide additional undergraduate student housing within the Campus Plan boundaries. During the Campus Plan 2000-2009 hearings, OP testified that it would support the concept of using flexible zoning guidelines with regard to building height and density in order to maximize housing and development on campus. The use of the PUD process to maximize on-campus development is entirely consistent with OP’s suggested use of flexible zoning tools, and to this end, the Commission has approved two PUDs for student housing on GW’s Foggy Bottom campus, in Z.C. Order No. 03-29 (June 18, 2004) and in Z.C. Case No. 06-17 (final action taken December 11, 2006, order pending). The new Campus Plan continues the use of the PUD process to accommodate the University’s development needs within its existing Campus Plan boundaries. Focusing future University development within the Campus Plan boundaries was a key issue raised during both the Campus Plan 2000-2009 hearings and the community-based planning process that led to the development of this Campus Plan. See Ex. 222 (The Community-Based Planning Process).

12. At the time of the filing of the application for the Campus Plan 2000-2009, the University provided 3,519 on-campus beds, which accommodated approximately 51 percent of its Foggy Bottom full-time undergraduate population. During the hearings on this plan, OP, ANC 2A and representatives of the community requested that the University house more of its undergraduate population on campus. The BZA Order approving the existing Campus Plan required that, effective fall 2006, the University provide beds for 70 percent of the full-time Foggy Bottom undergraduate population up to an enrollment of 8,000 (5,600 beds) and one bed for each full-time Foggy Bottom undergraduate student over 8,000. Additionally, the BZA Order required the University to house freshmen and sophomores on campus (with limited exceptions for students that are married, have children, have disabilities or religious beliefs inconsistent with residence hall life, or are commuters). The Order also included population caps on Foggy Bottom student enrollment and Foggy Bottom faculty and staff. Moreover, the Order required compliance status reports at the time of filing of every application for further processing. In addition to these reports, the University was also required to submit biannual reports detailing GW’s undergraduate enrollment and bed count as well as a report of local addresses of Foggy Bottom undergraduates not living in University housing. See Tr. Sept. 14, 2006 at 36-40.

13. Since the approval of the existing Campus Plan, the University has made substantial efforts to provide additional on-campus beds, including the construction of several new on-campus residence halls. As a result, the on-campus bed count has increased by approximately 2,800 beds since 1999. See Tr. Sept. 14, 2006 at 36-38. The Commission notes that as a direct result of the BZA Order, the University has successfully addressed the issue of lack of sufficient on campus undergraduate housing, which was identified as a key concern in the Campus Plan

2000-2009. As detailed by the Applicant, the University has and continues to comply with the conditions set forth in the existing Campus Plan. Furthermore, since the approval of the existing Plan both the Zoning Commission and the Department of Consumer and Regulatory Affairs (“DCRA”) have approved zoning orders and various regulatory permits based on the University’s compliance with the Campus Plan 2000-2009. See Exhibit 54 (GW Opposition to FBA Motion to Dismiss).

The Development Plan

14. In recent years, several factors have prompted the University to closely evaluate its land use planning efforts, including the fundamental constraints of limited space and financial resources, a desire to proactively address concerns expressed by residents of the surrounding neighborhood with respect to University growth and development, and the unique opportunity presented by the redevelopment potential of Square 54, the old GW hospital site. As a result, the University has developed an integrated development strategy that accommodates its forecasted academic and student housing needs within the existing Campus Plan boundaries (including approximately 474 new on-campus beds through the recently-approved joint D.C. Public Schools (“DCPS”)/GW School Without Walls development project), and allows for the redevelopment of Square 54 as a dynamic town center that would enhance the GW *Living and Learning* environment and provide a major source of non-enrollment driven revenue to fund the core academic mission of the University. Ex. 31; Tr. Sept. 14, 2006 at 26-29.

15. In order to consider the use of Square 54 for non-university purposes, OP required that GW demonstrate that the University could accommodate its forecasted academic and student housing needs within the existing Foggy Bottom campus, exclusive of Square 54. Ex. 31.

16. GW’s space needs include new and modernized facilities responsive to evolving academic and technological advancements, as well as additional undergraduate student housing to meet student demand for on-campus housing and to allow the University to continue to comply with the Campus Plan housing requirement. The additional facilities proposed under the development plan detailed in the *Foggy Bottom Campus Plan: 2006 – 2025* are not aimed at accommodating an increase in the student, faculty, or staff populations beyond those already approved under the existing Campus Plan. Rather, the University requires the facilities growth in order to further its core academic mission and enhance the quality of the University’s educational program. See Ex. 31; Tr. Sept. 14, 2006, at 26-29.

17. The University has adopted a “Grow Up, Not Out” planning strategy to accommodate its forecasted academic and student housing space needs within the existing Campus Plan boundaries. This approach provides for predictable, planned growth consistent with surrounding development patterns and guided by “smart growth” and transit-oriented development planning principles; preserves and enhances the District’s tax base by making more efficient use of properties already owned by the University and utilizing Square 54 for commercial purposes; and addresses community concerns regarding University expansion into surrounding residential neighborhoods outside the Campus Plan boundaries. Ex. 31; Tr. Sept. 14, 2006 at 26-29.

18. The Applicant has submitted a plan for developing the campus as a whole, showing the location, height, and bulk of all present and proposed improvements, as required by 11 DCMR

§ 210.4.³ The development plan set forth in the Campus Plan and proposed to be implemented through the accompanying two-stage PUD appropriately concentrates height and density within the central campus core and away from historically sensitive areas of campus and existing residential neighborhoods. See FOF 43 – 61; Ex. 31; Tr. Sept. 14, 2006 at 55-57.

19. The Campus Plan does not propose any change in the existing Foggy Bottom student or combined Foggy Bottom faculty and staff headcount and full-time equivalent population caps. The Foggy Bottom faculty and staff count, however, will be combined into a single faculty/staff population cap in order to alleviate the complexities associated with distinguishing between various categories of faculty and staff and to allow the University to report this population in a manner more consistent with its existing business processes with respect to tracking University employees. This combined cap represents the total of the Foggy Bottom faculty and staff caps set forth in the existing Campus Plan and will not have any impact on the Foggy Bottom student population, which is governed by its own cap. Ex. 99 (Sept. 21 Submission, Exhibit C).

20. No interim use of residentially-zoned land outside the Campus Plan boundaries is proposed as part of the Campus Plan. Depending on the timing and sequencing of proposed development projects—particularly with respect to the redevelopment of the University Parking Garage—the University may need to utilize, on an interim basis, certain off-campus parking resources to maintain compliance with the 2,800 parking space requirement. If such interim parking use is required, it will be specifically raised and addressed in connection with the second-stage PUD associated with the project triggering the interim parking use. Ex. 31.

21. As described below, the PUD and Map Amendment will rezone various sites on campus. Development under the Campus Plan and PUD will not exceed the aggregated FAR limits for the residentially-zoned areas of campus as permitted under the Campus Plan and PUD regulations, and development contemplated for each SP and commercially-zoned site will not exceed the maximum permitted FAR under the PUD regulations. FOF 43 – 61; Ex. 31.

The Community-Based Planning Process

22. Well over a year prior to the February 11, 2006 filing of the Campus Plan, the University, at the request of OP, developed a comprehensive community-based planning process in order to engage a variety of interested stakeholders and elicit their input and feedback. The University retained Ehrenkrantz Eckstut & Kuhn, a nationally respected design and planning firm with extensive urban planning experience, as the lead architect/planner to study the future of the Foggy Bottom campus in the context of its surrounding neighborhoods. Tr. Sept. 14, 2006 at 42-43; see Ex. 222 (Community-Based Planning Process).

23. In spring 2005, the University launched a comprehensive neighborhood website (www.neighborhood.gwu.edu) in order to make all relevant planning materials available to interested stakeholders throughout the planning and regulatory process. Tr. Sept. 14, 2006 at 45.

³ The Campus Plan includes information regarding the development details (e.g., gross floor area, height, proposed number of beds and parking spaces) associated with the Square 80 (School Without Walls) and the Square 54 development projects, which are included in the plan but have been filed as separate consolidated PUD applications.

24. GW and OP co-sponsored an Urban Land Institute (“ULI”) Advisory Services Panel in May 2005 to specifically evaluate the development potential of Square 54, the old GW Hospital site. The panel recommended mixed-use commercial development of Square 54 at a density between 7.0 and 8.0 FAR, under the assumption that GW would be able to accommodate its forecasted academic and housing needs on other sites located within the Campus Plan boundaries. The ULI report further supported the University’s “*Grow Up, Not Out*” development strategy and suggested that an aggregate campus density of 5.0 would be appropriate given the surrounding built environment and context of the campus. Tr. Sept. 14, 2006 at 42-43.

25. GW, OP, and ANC 2A co-sponsored a series of open community meetings throughout the summer and fall of 2005. These meetings were moderated by an independent facilitator, and all of the issues and concerns raised by participating stakeholders throughout the series of meetings were documented in a comprehensive “Issues Exhibit” made publicly available on the neighborhood website. All of these issues were taken into consideration and many resulted in specific changes, modifications, and adjustments to the Campus Plan as it evolved throughout the planning process. Tr. Sept. 14, 2006 at 43-44; see Ex. 90 (Issues Exhibit).

26. Following the series of co-sponsored meetings, the University continued to engage interested stakeholders in a number of outreach activities, including community meetings, small group briefings, brown bag lunches and one-on-one information sessions. Tr. Sept. 14, 2006 at 44.

27. The University worked closely with District agencies, including OP, HPO, and DDOT, throughout the planning and regulatory process in order to identify and address issues related to the proposed Campus Plan. These agencies will continue to have a strong role in evaluating the implementation of the Campus Plan and its various planning components through the review and approval processes for each second-stage PUD. Tr. Sept. 14, 2006 at 44-45.

Issues Carried Over From the Existing Campus Plan

28. The proposed Campus Plan carries forward the on-campus housing requirements set forth in the existing Campus Plan. See FOF 12; Appendix A, Conditions 12, 13. The Campus Plan further contemplates the development of up to approximately 1,000 additional on-campus beds in order to: (1) ensure that the University continues to meet the on-campus housing requirement; (2) allow for the transition of existing off-campus undergraduate residences to other uses (Appendix A, Condition 14); and (3) provide on-campus housing options that are responsive to the demands of the undergraduate student population. To this end, the completion of the recently-approved residence hall associated with the Square 80 (School Without Walls) PUD will provide approximately 474 beds in an apartment-style configuration with strong appeal to undergraduate students. The gross floor area of this project is included in the campus-wide FAR calculations set forth in Exhibit T of the Campus Plan. Ex. 31.

29. Another key issue raised during the consideration of the existing Campus Plan was the expansion of university uses into residentially-zoned areas outside the Campus Plan boundaries. Tr. Sept 14, 2006 at 41, 48. Due to the fact that the Campus Plan accommodates the University’s forecasted academic and student housing needs within the existing Campus Plan boundaries, the

University is able to propose a schedule for the transition over time of off-campus properties to uses other than undergraduate housing. Specifically, the University discontinued the use of the Hall on Virginia Avenue for undergraduate housing in fall 2006. *Id.* at 48. The schedule for the transition of other off-campus properties is detailed more fully in the conditions of approval of this Order. See Appendix A, Condition 14.

30. The existing Campus Plan provided for several potential uses of Square 54, the former site of the GW Hospital, including academic, administrative, residential, campus life, athletic, medical, health, and commercial/investment uses. *Tr. Sept. 14, 2006* at 41. A consolidated PUD for the mixed-use commercial redevelopment of the Square 54 site was filed by GW along with Boston Properties, Inc. and KSI Services, Inc. on May 30, 2006 and is currently pending before the Commission (Z.C. Case No. 06-27). The gross floor area of this project is included in the campus-wide FAR calculations set forth in Exhibit T of the Campus Plan. *Ex. 31.*

31. In 2000, ANC 2A proposed that the University agree not to purchase any residentially-zoned property in the Foggy Bottom/West End area for university use. *Ex. 99 (Sept. 21 Submission, Exhibit A); Tr. Sept. 25, 2006* at 11. Due to the fact that the proposed development plan accommodates the University's forecasted academic and student housing needs within the existing Campus Plan boundaries, the University is able to commit as part of the new Campus Plan not to purchase any residentially-zoned property in the Foggy Bottom/West End area for uses other than investment purposes during the twenty-year term of the Plan. This commitment is detailed more fully in the conditions of approval of this Order. See Appendix A, Condition 8.

32. Condition 3 of the existing Campus Plan called for the formation of an Advisory Committee to provide a forum for discussion between the University and members of the community. While GW's repeated attempts to form the Advisory Committee have been unsuccessful to date, the University has made significant efforts to strengthen dialogue with the community and increase its responsiveness to community issues through a variety of means, including the establishment of the Office of Foggy Bottom/West End Affairs and regular outreach and communication with the FRIENDS community group, as well as through the comprehensive community-based planning process discussed in FOF 22 – 27 herein. The University continues to actively seek to establish the Advisory Committee as a forum to identify, discuss, and resolve issues of mutual concern. The Campus Plan carries this condition forward, with modifications that are intended to strongly promote the formation and sustainability of the Advisory Committee. See Appendix A, Condition 9.

33. The University has and continues to comply with the conditions set forth in the current Campus Plan order. (The University's compliance with the student enrollment cap specifically was confirmed by a report of the Zoning Administrator dated September 14, 2006 and submitted to the record as Exhibit 81, as well by the results of a voluntary independent audit of the University's Foggy Bottom student enrollment numbers attached to the Zoning Administrator's September 14, 2006 Report.) Nonetheless, some members of the community have continued to raise concerns about the University's compliance. In order address concerns regarding GW's record of and continued commitment to Campus Plan compliance, the University has worked with OP to develop improved mechanisms to clearly establish and monitor compliance moving forward and has proposed these procedures as conditions of approval of the Campus Plan. Specifically, the University has proposed Campus Plan reporting dates that align with standard

University census reporting dates, so as to ensure that reported data is consistent and can be easily confirmed and monitored by interested parties. The University has also worked closely with OP to establish clear and specific enrollment definitions as well as detailed reporting procedures. Finally, the University has agreed to an annual audit of Foggy Bottom student enrollment to be conducted under the supervision of the Zoning Administrator. These commitments are detailed more fully in the conditions of approval of this Order. See Appendix A, Conditions 10, 11, 25, 26.

Student Conduct/Noise Impacts

34. Pursuant to the existing Campus Plan, the University has established a hotline for use by members of the community to submit complaints and make inquiries regarding potential misbehavior by GW students and other subjects of community concern. The University has enhanced its internal procedures for tracking and responding to such calls. All calls are documented in an “Incident Report”, and these reports are then forwarded to the appropriate University offices, including the Dean of Students Office, the Office of District of Columbia and Foggy Bottom/West End Affairs, and University Relations. When contact information is provided, University officials follow up with the community member who initiated the call. Approximately 80% of concerns involve complaints of noise. In those reports where the University was able to verify that a GW student was engaged in misconduct, all of these students were subjected to University disciplinary action. The Student Code of Conduct provides for a progressive range of disciplinary actions based on the circumstances of each case to ensure appropriate treatment. Notably, the number of students found to have engaged in repeated acts of misconduct after the imposition of University discipline is minimal. See Ex. 99.

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

Traffic and Parking Impacts

36. The Foggy Bottom campus is served by a number of modes of public transit, including the Foggy Bottom-GWU Metrorail station at 23rd and I Streets NW, and at least eight Metrobus lines as well as commuter-buses providing service from locations throughout Virginia and Maryland. Additionally, the University provides shuttle buses that offer safe and secure transportation between the Foggy Bottom campus and the Mount Vernon and Virginia (Loudoun County) campuses. Ex. 31.

37. The University currently maintains a Transportation Management Plan (“TMP”) as a condition of the existing Campus Plan in order to mitigate vehicular traffic impacts, and enforces a student parking policy that discourages students from bringing vehicles to campus. A 2006 survey conducted by the Applicant’s transportation consultant demonstrated that 85% of students and 53% of faculty and staff arrive on campus through means other than by automobile. Ex. 230 (Nov. 15 Submission, Exhibit E).

38. The Applicant’s Transportation Impact Study (“TIS”) analyzed the potential traffic impact that would result if the combined Foggy Bottom faculty/staff population increased to the

combined faculty/staff population cap set forth under the existing and proposed Campus Plans. The study also compared the potential impact of the Campus Plan (including the recently approved Square 80 (School Without Walls) PUD and proposed Square 54 PUD) to background future conditions absent the proposed campus development. Ex. 230.

39. According to the Applicant's transportation consultant, the impact of increases to the Foggy Bottom student cap and to the Foggy Bottom combined faculty and staff count over the twenty-year term of the Campus Plan would be offset by a series of mitigation measures the Applicant has agreed to put in place. With these measures, the levels of service for the area are expected to be comparable to the service under background future conditions absent the proposed campus development. These mitigation measures include the implementation of additional signalization timing adjustments, curb parking restrictions, and a potential new traffic signal. None of the proposed mitigation measures are required under existing conditions. The implementation of these specific traffic mitigation measures will be evaluated with each second-stage PUD to ensure that the actual effects of new development, as well as changes in traffic conditions, are appropriately addressed. This approach will allow appropriate mitigation measures to be phased in over time, as necessary. Ex. 230.

40. As part of the proposed Campus Plan, the University will also enhance and strengthen its existing TMP with the following measures in order to encourage even greater transit use and minimize traffic impacts: utilization of a transportation management coordinator; technology initiatives; web-based transit purchases; and a truck management plan. Ex. 230; see Appendix A, Condition 23.

41. As stated above, the University has proposed no increase to the existing population caps on Foggy Bottom students and combined Foggy Bottom faculty and staff set forth in the existing Campus Plan. In addition, the University has not proposed any change to the minimum supply of 2,800 off-street parking spaces. Ex. 31, 230.

42. As part of the Campus Plan and PUD, GW has identified several parking opportunity sites that could accommodate underground parking facilities as part of new development projects. For example, the recently approved Square 80 (School Without Walls) PUD in Case No. 06-17 accommodates approximately 178 vehicles in the below-grade parking facility, and the proposed development in Square 54 includes approximately 1,026 underground parking spaces, 362 of which are currently proposed for GW use. The future University parking supply will maintain an appropriate parking capacity and continue to meet the 2,800 space requirement. Ex. 31.

The Foggy Bottom Campus PUD and Map Amendment

43. The location of the proposed PUD (the "PUD Site") is consistent with the boundaries of the Foggy Bottom campus as defined in the existing and proposed Foggy Bottom Campus Plans. The first-stage PUD includes every property owned by the University within the Foggy Bottom Campus Plan boundaries. Ex. 23 (Z.C. Case No. 06-12).

44. The land area of the PUD Site is approximately 1,669,744 square feet. The PUD Site thus exceeds the 15,000 square foot minimum area requirement for a PUD in the R-5-D, R-5-E, C-3-C, and SP-2 Zone Districts. Ex. 23 (Z.C. Case No. 06-12).

45. The PUD Site is located in the Institutional land use category as depicted on the District of Columbia Generalized Land Use Map. The areas immediately to the north and east of the Campus Plan boundaries are designated for high-density commercial use, the area immediately to the south is designated for high-density residential use, and the area to the west is designated for moderate, medium, and high density residential use.

46. The PUD Site is located in the R-5-D, R-5-E, SP-2, and C-3-C Zone Districts. The R-5-D Zone District permits a maximum height of 90 feet, a maximum lot occupancy of 75%, and a maximum FAR of 3.5, and the PUD guidelines for the R-5-D District allow a height of 90 feet and a maximum FAR of 4.5. The R-5-E Zone District permits a maximum height of 90 feet, a maximum lot occupancy of 75%, and a maximum FAR of 6.0, and the PUD guidelines permit the same. The SP-2 Zone District permits a maximum height of 90 feet, a maximum lot occupancy of 80% for buildings devoted to residential use, and a maximum FAR of 6.0 for buildings devoted to residential use, and the PUD guidelines allow a height of 90 feet and a maximum FAR of 6.5 for buildings devoted to residential use in the SP-2 zone. The C-3-C Zone District permits a maximum height of 90 feet, a maximum lot occupancy of 100% for all uses, and a maximum FAR of 6.5, and the PUD guidelines allow a height of 130 feet and a maximum FAR of 8.0.

47. The proposed PUD identifies specific development sites detailed in the Campus Plan as second-stage PUD projects. Through the PUD planning process, additional density and height have been appropriately targeted on specific development sites primarily located in the campus core. Ex. 31; Tr. Sept. 14, 2006 at 50-63.

48. In order to achieve the height and density necessary to accommodate the University's forecasted academic and student housing needs within the existing Campus Plan boundaries, the Applicant requests a Map Amendment in conjunction with the PUD that rezones certain properties within the PUD Site to the C-3-C Zone District and one site to the C-4 Zone District. C-3-C zoning is located within the existing Campus Plan boundaries in the northeast corner of the campus, and C-3-C and C-4 zoning is located to the north and east of the campus, respectively. Ex. 31; Tr. Sept. 14, 2006 at 54, 58-59.

49. The proposed rezoning to C-3-C and C-4 is consistent with current zoning within the Campus Plan boundaries and the zoning of the surrounding properties as well as the purposes and intent of the Zoning Regulations. Ex. 31, 230 (Nov. 15 Submission, Exhibit G). The proposed rezoning is also consistent with the Comprehensive Plan's Generalized Land Use Map designations for the surrounding properties, and the 1938 Zoning Enabling Act.

50. The underlying residential zoning of the remainder of the campus, specifically those areas adjacent to the existing residential communities to the west and south of campus and the development sites included in those areas, will remain unchanged. Ex. 31.

51. Each development project identified in the PUD will require approval through a second-stage PUD process, including a detailed site plan review, to confirm compliance with the first-stage approval and the applicable provisions of Section 210. Ex. 31.

52. College and university uses, including dormitory uses, are permitted in commercial zones as a matter of right. 11 DCMR 701.6(f). Land that is not residentially-zoned within an approved campus plan is not subject to the aggregation rule that applies to residentially-zoned property within an approved campus plan.

53. The Campus Plan PUD identifies 16 development sites within the existing Campus Plan boundaries which will each be subject to individual second-stage PUD review⁴. The proposed uses, height, lot coverage and gross floor area for each development site have also been designated. The sites and uses were individually evaluated and selected by the University based on each site's current use and condition, suitability for redevelopment, existing campus use patterns, potential impacts on neighboring property, and the University's overall forecasted space requirements. In three specific cases, sites are designated for potential alternate uses, to provide an appropriate measure of flexibility given the duration of the Plan and the evolving nature of University programming and planning considerations. In addition, portions of the first floors of several development sites along I Street are contemplated to include retail space in support of the I Street Retail Corridor concept detailed in the Campus Plan. This concentration of retail uses will benefit both the University as well as members of the surrounding community and is proposed in addition to retail venues located throughout the campus as accessory uses which are intended to primarily serve the University population. Ex. 31.

54. The Development Program Summary in Exhibit J of the Campus Plan details the proposed height, site coverage, gross square footage, and, as applicable, net new beds and parking spaces for each identified development site. Ex. 31.

55. The Tabulation of Development Data in Exhibit B of the Campus Plan PUD details: (a) the area and dimensions of each lot proposed for each development site and the area of the total development site; (b) the percentage of lot occupancy of each development site for each lot (as anticipated to be consolidated or subdivided, as necessary) and for the entire site; and (c) the gross floor area ("GFA") and FAR for each development site on each lot, including a breakdown for each use, and the total GFA and FAR for all development sites on the entire campus, including a breakdown for each use. The Applicant has proposed guidelines for lot coverage that will require relief from the Regulations for certain sites that will be detailed in the appropriate second-stage PUDs. Ex. 23 (Z.C. Case No. 06-12).

56. The Campus Plan establishes height and lot coverage guidelines to allow for more efficient use of individual development sites and to provide the opportunity to maintain important open spaces and preserve lower-scale historic buildings on the balance of campus.

⁴ The Square 80 (School Without Walls) and Square 54 projects, both of which are located within the Campus Plan boundaries, were filed prior to the issuance of this order as separate, consolidated PUD applications and thus will not be subject to second stage review under the Campus Plan PUD. These projects are in addition to the above-referenced 16 development sites included in the Campus Plan PUD.

The Campus Plan PUD and Map Amendment provide the appropriate mechanism to achieve these proposed height and lot coverages. Ex. 31; see Tr. Sept. 14, 2006 at 57-58.

57. Exhibit K of the Campus Plan sets forth proposed building heights as follows: up to 130 feet along Pennsylvania Avenue, consistent with the existing commercial zoning and surrounding high-density environment; up to 110 feet along 22nd Street between G and I Streets, reflecting the intensity of existing and proposed University uses and the desire to concentrate density in the campus core and away from surrounding residential neighborhoods; and up to a maximum of 90 feet on the balance of campus, remaining sensitive to certain areas where a lower scale for new development is appropriate. Ex. 31; Tr. Sept. 14, 2006 at 55-58

58. Lot coverage guidelines are informed by the use of specific sites. For residential purposes, a 75% lot coverage guideline is generally appropriate. Academic uses can afford a higher lot coverage, and thus a 90% lot coverage guideline is generally appropriate. With respect to a potential commercial development on Pennsylvania Avenue (site 75A), 100% lot coverage is appropriate given the infill nature of the site. The specific lot coverage for each development site will be evaluated and determined when the particular project is submitted for second-stage review by the Zoning Commission. Ex. 31; Tr. Sept. 14, 2006 at 57.

59. The existing built environment of the campus provides a diverse composition of old and new structures of varying scale and design. As part of the comprehensive planning process, the University and architectural and historic preservation consultants, in coordination with OP and HPO staff, conducted an in-depth campus architectural and historic preservation study. Tr. Sept. 14, 2006 at 61-63. As a result of this effort, the University significantly modified its original development plan to preserve important campus resources and developed a comprehensive Historic Preservation Plan for the Foggy Bottom campus, aimed at ensuring that appropriate campus resources are identified, preserved, and maintained while accommodating the University's forecasted academic student housing needs on the balance of the campus. Ex. 31; Tr. Sept. 14, 2006 at 56-57, 63-67.

60. Specifically, as indicated in Exhibit W of the Campus Plan, the Historic Preservation Plan proposes the creation of a historic district on the Foggy Bottom campus and the landmark designation of additional campus buildings. The University has worked with the HPO to establish design guidelines for five identified development sites located adjacent or in close proximity to historically significant buildings. Tr. Sept. 21, 2006 at 85-86. The University is continuing to work with Historic Preservation staff to establish appropriate maintenance guidelines for both existing and proposed landmarks and contributing buildings within the proposed historic district. Id. at 86. GW is the only university in the District to undertake this type of comprehensive historic preservation review. See Tr. Sept. 21, 2006, at 84. In June and July 2006, the Historic Preservation Review Board reviewed the proposed Historic Preservation Plan and applauded GW and HPO's collaborative efforts to address both preservation and planning principles in the development of the Foggy Bottom Campus Plan. See Ex. 91, 92.

61. As detailed in Exhibit A of the Applicant's November 15, 2006 submission, see Ex. 230, the proposed PUD will provide the following project amenities and public benefits:

- a. Streetscape Plan. The Streetscape Plan sets forth a framework for future streetscape improvements to occur over the next two decades in accordance with the fundamental planning concepts outlined in the *Foggy Bottom Campus Plan: 2006 – 2025*. Consistent with the Campus Plan, the Streetscape Plan reflects the diversity of the Foggy Bottom campus—particularly the primary “campus streets” (I, H, and G Streets)—and focuses on areas of the campus where University activity is concentrated. The proposed Streetscape Plan includes a block by block implementation plan that provides for appropriate streetscape improvements to be made to all “enhanced” streetfronts to meet the standards set forth in the proposed Streetscape Plan. The University estimates that the cost to implement the sidewalk, curb and gutter improvements associated with the Streetscape Plan as set forth above (in current dollars) will exceed \$5.5 million. In addition, street trees and lighting improvements are estimated to cost approximately \$1.1 million (in current dollars). It is anticipated that DDOT will share to some extent in the costs associated with the installation and maintenance of street trees and lighting improvements.

- b. Sustainable Development Planning and Design Principles. The Campus Plan provides an approach to future campus development that is consistent with sustainable development and neighborhood planning standards advanced by the U.S. Green Building Council, the Congress for New Urbanism, and the Natural Resources Defense Council. In connection with each second-stage PUD application under the proposed Campus Plan, the University will provide an overview of specific environmentally-sensitive features which are to be incorporated into the design and construction of the proposed project, as well as those features which may be further explored and considered for implementation.

- c. Historic Preservation Plan. The University, working closely with the Historic Preservation Office (“HPO”) and a team of architectural historians, has developed a comprehensive Foggy Bottom Campus Historic Preservation Plan which proposes a historic district on the Foggy Bottom campus as well as the landmark designation of several additional campus buildings. The University has assumed the expenses associated with the preparation and submission of the multiple landmark applications and the preparation of the historic district application for submission by the HPO. It is anticipated that these expenses themselves will total approximately \$100,000. Because this effort and expense has been undertaken by the University, HPO staff resources are available to address other worthy preservation projects benefiting the District. Furthermore, future GW expenditures associated with the heightened maintenance associated with these structures, though difficult to specifically quantify, will be significant and ongoing. The designation of landmarks and historic districts is a long-term if not permanent endeavor, and its impact and benefits will certainly extend well beyond the twenty-year term of the proposed Foggy Bottom Campus Plan as well as subsequent Campus Plans. The implementation of this far-reaching and unprecedented preservation commitment will preserve and protect the historic built environment of the GW campus and the larger neighborhood for the benefit

of the University community, the Foggy Bottom and West End communities, and the entire city.

- d. **I Street Retail Corridor.** The Campus Plan contemplates the creation of a unique and dynamic retail corridor along I Street, providing key neighborhood-serving retail services. The I Street retail corridor concept, coupled with the retail program included in the proposed mixed-use development on Square 54, would help create a critical mass of retail extending from the Foggy Bottom-GWU Metro to The Shops at 2000 Penn. This effort would be implemented over time by including ground floor retail in University facilities as they are redeveloped – and would provide opportunities for a variety of retailers, including small local and “mom and pop” establishments, as University retail venues are often smaller in scale and retail rents charged by the University are generally below average market. Given these considerations, estimated rents for retail space along the proposed I Street retail corridor are expected to be approximately \$25 per square foot (comparable to the grocery store rents contemplated on Square 54). The overall cost to GW of providing this amenity is the difference between the revenues generated from I Street retail rents and the cost of occupying other space (as a tenant) at an estimated \$40 per square foot (average). Based on this analysis, it is estimated the value of the I Street Retail Corridor amenity exceeds \$4 million (assuming a cap rate of 6.0%).

- e. **Below-Grade Parking.** The Campus Plan provides for the elimination of the above-grade University Parking Garage (located at 22nd and I Streets) as well as other surface lots and the construction of underground parking facilities at various sites dispersed throughout the campus. The elimination of surface parking as proposed by the Campus Plan will reduce stormwater runoff, allow for more efficient utilization of existing space resources, and enhance the campus environment by distributing traffic and improving pedestrian safety. This element of the Campus Plan results in substantial costs in excess of those associated with providing spaces at or above grade. In current dollars, construction costs associated with below grade parking is estimated at \$58,000 per space.

- f. **Off-Campus Commitments.** Among the key community benefits associated with the new Campus Plan are the proposed conditions with respect to off-campus properties. Specifically, proposed Condition 8 limits the University’s rights with respect to acquisition and use of residentially-zoned properties outside of the Campus Plan boundaries in the Foggy Bottom/West End area. While this commitment would not preclude the purchase of properties for investment purposes, it would restrict the University from purchasing a residentially-zoned property within the Foggy Bottom/West End area and changing its use to one limited to the University population. This condition represents a significant commitment made by the University at the behest of the Office of Planning and directly responds to concerns raised by ANC 2A in connection with the Campus Plan 2000 – 2009 case. See Ex. 99 (Sept. 21 Submission, Exhibit A). Furthermore, proposed Condition 14 calls for a specific schedule for transitioning

the use of off-campus residence halls, including the Hall on Virginia Avenue, The Aston, Columbia Plaza (with respect to units over which GW maintains certain designation rights as part of GW's undergraduate student housing program), and City Hall. This condition has been proffered in direct response to issues raised by members of the community early in the community-based planning process. The University is in a position to make these substantial commitments as a result of the opportunities created by the scope of the proposed development plan set forth in the *Foggy Bottom Campus Plan: 2006 – 2025*, which will accommodate not only GW's forecasted academic needs on-campus, but will also provide for additional on-campus undergraduate student housing.

- g. Enhanced Campus Plan Conditions. As a result of the community-based planning process and extensive discussions with the Office of Planning, the University has proposed a comprehensive set of Campus Plan conditions that far exceed those adopted by other institutions in the District of Columbia. These conditions include definitions that provide additional clarity and specificity to the University's commitments and promote transparency with respect to issues of Campus Plan compliance. Pursuant to the proposed conditions, GW will provide biannual reports which are tied to the University's census date to ensure complete, accurate and verifiable data on student enrollment. By contrast, most District universities, to the extent they are required to report such data at all, submit reports only when filing zoning applications or on an annual basis. Significantly, the University has agreed to participate in an annual audit of Foggy Bottom student enrollment to be conducted by an auditor approved by the Zoning Administrator, see Appendix A, Condition 8, a process not required of any other local institution. In addition, the conditions set forth an appropriate methodology for including in the Foggy Bottom student enrollment count certain students who take classes at the Mount Vernon campus. While other institutions exclude students on satellite campuses completely from the enrollment counts associated with their main campus, GW has proposed to exclude from its Foggy Bottom enrollment only those students who reside at the Mount Vernon Campus, or who take all of their courses there. This approach appropriately measures student impact while promoting the continued use of satellite campuses as a means to accommodate the space and growth needs of the District's universities. See Ex. 99 (Sept. 21 Submission, Exhibit B).

In all, these specific public amenities, along with the other myriad benefits discussed at length during the Campus Plan hearings, warrant the planning flexibility sought through the PUD process.

The Hearings

62. By report dated September 5, 2006, and by testimony at the public hearing, OP recommended approval of the Applications. Ex. 51 (OP Final Report). OP reviewed the Applications both under the standards for issuing a special exception for a campus plan under Section 210 of the Zoning Regulations, and under the guidelines for a PUD in chapter 24 of the Regulations. Tr. Sept. 21, 2006, at 83-84. OP testified that the approval of the Campus Plan

would likely have no objectionable impacts in terms of noise, traffic, number of students or other objectionable conditions under the special exception standards of Section 210. Tr. Sept. 21, 2006, at 83. OP stated that the Campus Plan is not inconsistent with the Comprehensive Plan, meets the zoning requirements for a campus plan, and does not increase the current allowable number of Foggy Bottom students, faculty, and staff or create any other objectionable impact. Tr. Sept. 21, 2006, at 83. OP stated that the Campus Plan PUD identifies specific development sites that allow the University to meet its forecasted space needs, yet limits development on the remainder of campus and allows GW to make substantial commitments to reduce its impacts on the surrounding community. OP testified that the PUD process was the only process what would adequately provide certainty to all sides about how the Campus Plan will be fulfilled. OP further found the commitments and benefits associated with the Campus Plan—including but not limited to the historic district, the streetscape improvements, the transition over time of current off-campus undergraduate facilities to other than undergraduate student housing use, the University's agreement to limit future purchases of off-campus property in the Foggy Bottom area for university use during the twenty-year term of the Plan, and the enhanced reporting requirements—to be commensurate with the density and flexibility sought through the PUD process. Tr. Sept. 21, 2006, at 84. According to OP, the rezoning set forth in the PUD and related map amendment permits the University to target height and density primarily in the center of campus and allows for the retention of historically-sensitive areas of campus and for a lower density buffer area between the campus and surrounding residential neighborhoods. OP testified that the zoning changes are not inconsistent with the Comprehensive Plan and are in keeping with the character of the surrounding neighborhood. Tr. Sept. 21, 2006, at 84.

63. The District Department of Transportation (“DDOT”), by memoranda dated September 14, 2006 and November 27, 2006, and by testimony at the public hearing, supported the Applications, provided that the University implements the proposed Transportation Management Plan (TMP), described more fully in condition 23 of approval of this Order. Ex. 79 (DDOT Report), 231 (Supplemental DDOT Report). DDOT testified that based on the trip generation rates the Campus Plan will likely have no objectionable impact in terms of traffic or parking. Tr. Sept. 21, 2006, at 43. DDOT further testified that it agrees that dispersing parking facilities throughout the campus as set forth in the Campus Plan will have a positive traffic impact. Tr. Sept. 21, 2006, at 42. DDOT also testified that GW's continued efforts to house more of its students on campus and near mass transit serves everyone positively, and that GW-related traffic accounts for no more than ten percent of all traffic on streets within the campus during peak hours. See Tr. Sept. 21, 2006, at 43. DDOT indicated that it had reviewed testimony by FBA's traffic expert, asked the Applicant's transportation consultant for responses, and then evaluated the contested issues based on information received from both consultants as well as its independent review. Tr. Oct. 11, 2006 at 67. DDOT testified that it had no opposition to mitigation measures proposed by the Applicant that called for restrictions on either metered or curb parking, Tr. Oct. 11, 2006, at 59, but requested that its signal traffic engineers endorse all final aspects for any proposed traffic signal timing optimization associated with any future second-stage PUD project prior to obtaining any public space or building permits associated with such second-stage PUD project. DDOT also requested that GW impose a more stringent policy to restrict freshmen and sophomores from bringing cars to campus, and the University modified its proposed condition regarding student vehicles accordingly. See Appendix A, Condition 22.

64. The Zoning Administrator (“ZA”), by report dated October 11, 2006 and by testimony at the public hearings on October 11, 2006 and November 30, 2006, testified as to the enforceability of conditions proposed by the parties in their respective October 4, 2006 filings. See Ex. 220. The ZA testified that the conditions as proposed by GW were enforceable, but noted that deletion of the term “substantial” from Condition 7 would make the provision easier to enforce. The ZA also indicated which proposed modifications to the language of certain conditions introduced by ANC/FBA and WECA would also be enforceable. Furthermore, the ZA rejected many of the proposed changes by WECA and ANC/FBA as policy issues and outside the limited purview of his enforceability review. Specifically, the ZA testified that Condition 10, the definition of Foggy Bottom student headcount, was enforceable, and that the headcounts for Foggy Bottom faculty and staff should be combined in order to improve the enforceability of Condition 11.

65. Advisory Neighborhood Commission (“ANC”) 2A, by letter dated August 24, 2006 and by testimony at the public hearing, indicated that at a regularly scheduled meeting on August 16, 2006, the ANC approved a motion to oppose the applications. See Ex. 44. ANC 2A recommended against approval of the proposed Campus Plan and PUD based on the following concerns: (1) the University has not demonstrated compliance with Condition 20 of the existing Campus Plan; (2) the PUD, Zoning Map amendments and text amendment are unjustified and circumvent the intent and purposes of the Zoning Regulations because the sole justification is to exempt the PUD Site from the 3.5 FAR limit for residentially-zoned properties set forth in 11 DCMR § 210.3; (3) the proposed development exceeds the matter-of-right limits allowed under Section 210 and is therefore *per se* objectionable; (4) there is no indication that satellite campuses have been considered by the University; (5) the proposed commercial development of Square 54 frustrates compliance with the current Plan, and violates the requirement that a university submit a plan for developing the campus of a whole as set forth in 11 DCMR § 210.4; (6) no Environmental Impact Statement (“EIS”) has been prepared for proposed development in Square 54 and elsewhere in the vicinity of 23rd Street; and (7) the text amendment should be considered separately as a District-wide matter and heard first. The ANC letter also attached two prior resolutions.⁵

66. At the hearing, the ANC representative testified that adverse impacts from noise are “almost entirely an undergraduate problem,” but that more than “95 percent” of the students are “wonderful young people.” Tr. Sept. 21, 2006, at 188, 192. The ANC representative also testified that the Historic Preservation Plan provided benefits in the form of the preservation and maintenance of historic structures, and preservation of the historic texture of the neighborhood. Tr. Sept. 21, 2006, at 196. Finally, the representative for the ANC testified that an advisory committee would have merit, if properly constituted, as an opportunity for the University and the community to discuss issues of noise, behavior, parking enforcement, compliance, and

⁵ The first resolution, dated March 15, 2006 and passed by a vote of 3-2-1, questioned the University’s compliance with the student enrollment cap under the existing Campus Plan. The second resolution, dated November 16, 2005 and passed by a vote of 4-1-1, opposed any consideration of further development on the campus until the University came into compliance with the student enrollment cap, as demonstrated by an independent audit. The November 16, 2005 resolution also raised objections to any further development without an EIS or through the PUD or other process that would exceed the maximum development allowed under the matter-of-right limits of Section 210.

development, because all parties have a responsibility to come together, sit down, and engage in a constructive dialogue, particularly if it is a condition of a campus plan. Tr. Sept. 25, 2006, at 29-31; see also Tr. Sept. 21, 2006, at 201-04.

67. The Foggy Bottom Association (“FBA”) appeared as a party in opposition. The Commission qualified the FBA’s planning and traffic experts. Representatives of the FBA, including experts in planning and traffic, testified as to: (1) their involvement in discussions with the ANC, GW, and OP regarding development issues; (2) the impacts associated with GW students living in off-campus residences owned by the University as well as private off-campus residences, including noise; (3) the impact of students and their families walking on public sidewalks between classes and during campus tours; (4) their perceived inadequacy of the disciplinary system; (6) traffic impacts believed to be caused by on-campus events; (7) the relationship of the number of students to the impacts from noise, traffic, etc.; (8) the inadequacy of proffered amenities, including the historic district and commitment not to purchase residentially zoned properties within the Foggy Bottom/West End for university use; (9) the failure of the campus plan and PUD to comply with the requirements of the Zoning Regulations and Comprehensive Plan; and (10) the inadequacies of the Applicant’s TIS. Ex. 187-89.

68. The West End Citizens Association (“WECA”) appeared as a party in opposition. The Commission denied WECA request to certify its representative as an expert in the regulatory process. WECA testified that: (1) consideration of the proposed Campus Plan should not be permitted until the current Campus Plan has expired (in 2009); (2) the Zoning Regulations do not permit the proposed rezoning of properties within the Campus Plan boundaries to nonresidential zone designations in order to circumvent the aggregation rule; (3) the regulations do not permit long time periods for PUDs; (4) the proposal is without precedent; (5) the University is not in compliance with federal ADA requirements; (6) the University has failed to prepare an EIS; (7) the University has failed to restrict freshman and sophomores from bringing cars to campus; (8) the University does not always honor its commitments; (9) the University should consider the use of satellite campuses; and (10) proposed Condition 8 (which prohibits the purchase of residentially-zoned property in the Foggy Bottom/West End Area for exclusively university use) should be amended to include SP-2 zoned property. Ex. 173.

69. Approximately 110 individuals, including residents of Foggy Bottom and West End communities, current and former ANC commissioners, local business owners, and GW students and alumni, wrote letters or testified in support of the Applications at the public hearing, stating that the proposal merited consideration and approval as a “forward-thinking, innovative plan” that is “in and of the community.” Tr. Sept. 25, 2006, at 78. Individuals testified specifically as to the lack of objectionable noise, student behavior, traffic and parking impacts, and described the University’s efforts to increase on-campus student housing as a particular amenity. They also gave testimony in support of the University ongoing efforts to address and respond to noise, behavior, traffic, and other complaints through the FRIENDS organization, the Office of Foggy Bottom/West End Affairs, and other means. These individuals indicated support for the timing and duration of the proposed applications, and testified in favor of the proposed conditions, amenities, and benefits such as the streetscape plan, historic preservation plan, retail development, and sustainable planning elements, such as dispersed underground parking. Individuals also testified that they had attended the multiple presentations and meetings regarding the proposed applications in the community-based planning process and described the

University's planning effort as an open and inclusive process. Finally, individuals testified regarding the immense value of GW to the community and the District through University programs, investments, and partnerships. See Ex. 55-78, 80, 82-85, 93-94, 100-01, 107-145, 148-52, 154, 159-72, 174-86, 200, 217-19.

70. James Morris, the then-Commissioner for ANC 2A04 and David Lehrman, Commissioner for ANC 2A01 testified in support of the Applications at the public hearing. Both Commissioners indicated that they supported the proposed Applications. They testified that the University represented an asset of immense value to the community and that GW representatives were open to frank discussion and negotiation on contentious issues associated with the Campus Plan, even when representatives of the community were not. Ex.47, 111, 117; Tr. Sept. 25, 2006, at 58-69, 79-82

71. Sheila Cross-Reid, former Chair of the Board of Zoning Adjustment during the consideration of the existing Campus Plan, testified in support of the proposed Applications. Ms. Cross-Reid noted that the proposed Plan builds on the progress of the existing Campus Plan by continuing key conditions and addressing outstanding issues from the existing Plan. Ms. Cross-Reid specifically noted the "great strides" the University had made in meeting the existing Plan's housing requirements, cited the University commitment to restrict the purchase of off-campus properties in residential zones for university use as major step to address an area of concern in the existing Plan, and touted the benefits of the proposed PUD. Ex. 119; Tr. Sept. 25, 2006, at 86-88.

72. The Ward 2 Community Affairs Coordinator for the Executive Office of the Mayor submitted a letter in support dated September 25, 2006, which stated that "GWU has done an excellent job in reaching out to and working with the community as they go about the process of updating the campus plan." Ex. 164.

73. Approximately 40 individuals and organizations wrote letters or testified in opposition to the Applications at the public hearing, including residents of Foggy Bottom and West End communities, a representative of the Committee of 100 on the Federal City, and a GW student. While several of these individuals testified as to the objectionable noise, traffic, parking, and other disruptive practices of students, many indicated that they did not avail themselves of the University hotline available to address such concerns. Others indicated opposition to the proposed applications as contrary to the text and intent of the Zoning Regulations. Ex. 95, 96, 104, 106, 193-97, 202-04, 209-16, 225, 226, 228.

74. The Commission credits the testimony of the Applicant and its architect and historic preservation consultants, and finds that the streetscape and landscape design, site planning, historic preservation features, employment and training opportunities, housing, on-site retail and environmental benefits constitute project amenities.

75. The Commission credits the testimony of the Applicant's transportation consultant and finds that the proposed Campus Plan and first-stage PUD will not have significant traffic impacts exceeding those that would otherwise exist with future background development, provided that the University implements a series of mitigation measures including signal timing adjustments, curb parking restrictions, a traffic signal, and the proposed Transportation Management Plan.

76. The Commission credits the testimony of the Office of Planning that the Application meets the standards for a special exception under Section 210 and that the approval of this Campus Plan will likely have no objectionable impact in terms of noise, traffic, number of students, or other objectionable conditions.

77. The Commission credits the testimony of OP that the PUD process is an appropriate and, in fact, the most effective mechanism for providing specificity, clarity, and certainty to all stakeholders concerning how the proposed Campus Plan will be implemented.

78. The Commission agrees that the PUD process provides benefits and amenities of substantial value to the community and the District. These benefits are commensurate with the additional density and height sought through the Campus Plan PUD in order to provide GW with the opportunity to develop the space necessary to further its efforts to become a world-class university in the District of Columbia. See Tr. Sept. 21, 2006 at 84.

79. The Commission agrees that the proposed rezonings are not inconsistent with the Comprehensive Plan and are in keeping with the character of the surrounding neighborhood.

80. The Commission agrees with OP that the impacts associated with the implementation of the Campus Plan on the surrounding area and on public facilities and services are acceptable and commensurate with the public benefits of the Campus Plan PUD.

81. The Commission also credits the testimony of OP that the uses, buildings, and zoning changes described in the plan are completely compatible and consistent with the institutional use designation of the land included within the Campus Plan boundaries on the Comprehensive Plan Generalized Land Use Map and with the character of the surrounding neighborhood. Tr. Sept. 21, 2006 at 84. The Commission further agrees with OP that the Campus Plan supports Comprehensive Plan policies in the Land Use element that advocate protection of established residential neighborhoods and economic development. The Commission also agrees with OP that the Campus Plan meets the requirements of the Ward 2 Plan and furthers the Ward 2 Plan's policy in favor of the protection of historic resources through the formation of a campus historic district.

82. The Commission concurs with OP's recommendation that the permanent vesting of all densities and zoning set forth under the Campus Plan PUD should occur at such time as 70% of the proposed development program (as measured by developed square feet of gross floor area) has been approved through a second-stage PUD within the 20-year term of the first-stage PUD. This vesting provision will provide reasonable assurance that the development plan set forth in the Campus Plan can be achieved, and will provide the University with the requisite level of certainty necessary to maintain intact all of the proposed commitments, benefits and amenities included in the Applications.

83. The Commission agrees with OP that the pressures on the surrounding residential neighborhood that led OP and the BZA to impose the condition requiring additional on-campus housing for undergraduates have subsided, largely as a result of the BZA's imposition of the student housing condition under the Campus Plan 2000-2009, and the University's compliance therewith. Tr. Sept. 21, 2006 at 104.

84. The Commission agrees with DDOT's conclusion that the Applicant has fully addressed parking and traffic issues associated with the Campus Plan. The Commission credits DDOT's testimony that the Campus Plan will likely have no objectionable impact in terms of traffic or parking, provided that the proposed mitigation measures and TMP are implemented. The Commission credits DDOT's testimony regarding the acceptability of the Applicant's proposed future mitigation measures, including the restrictions on curb parking, provided that the Applicant obtain final approval from DDOT for any necessary signal timing adjustment associated with any future second-stage PUD project prior to obtaining any public space or building permits associated with such second-stage PUD project. Finally, The Commission credits DDOT's testimony regarding the contested issues raised by the FBA's traffic expert.

85. The Commission credits the testimony of the ZA that the conditions proposed by GW and OP are generally enforceable. Specifically, the Commission agrees with the ZA that Condition 10, the definition of Foggy Bottom student headcount, is enforceable as written, and that the population caps for Foggy Bottom faculty and staff should be combined in order to improve the enforceability of Condition 11. The Commission finds that the ZA's preference to delete "substantial" from the condition requiring continued compliance with all Campus Plan conditions, while understandable from the perspective of simplifying future compliance monitoring, does not adequately allow for the necessary flexibility to address the wide array of compliance issues that may arise with respect to the various conditions over the twenty-year term of the Campus Plan. See Ex. 230 (Nov. 15 Submission, Exhibit F).

86. The Commission finds the arguments of the ANC are not persuasive. First, the Commission disagrees with the ANC position regarding the University's compliance with the Foggy Bottom student enrollment cap. A voluntary independent audit confirmed that the University is in compliance with the Condition 8 of the existing Campus Plan. See Ex. 81. Furthermore, Condition 20 of the existing Campus Plan does not apply to a special exception application for approval of a new Campus Plan. See Ex. 54.

87. The Commission also disagrees with the ANC regarding the appropriateness of the PUD process and zoning map amendments for university campuses. This Commission has previously allowed the use of the PUD and zoning map amendment process for individual developments pursuant to the existing Foggy Bottom Campus Plan. See FOF 11. In this regard, the Commission specifically credits the approach of GW and OP, which is to use the first-stage PUD process to plan for the whole campus in a comprehensive, rather than an incremental manner. See Tr. Sept. 21, 2006, at 184. Further, the PUD process allows the Commission to control precisely where development will occur over the twenty-year term of the Campus Plan. This represents a significantly higher level of detail than the Campus Plan regulations themselves, which do not specifically control where development is located or the density of specific sites, so long as it is within the aggregate FAR cap. Tr. Sept. 28, 2006, at 98-100. Finally, the Commission finds that the concept of increasing density within the boundaries of a Campus Plan, primarily focused within the campus core, is a planning approach that is consistent with District planning principles set forth in both current and historical planning documents. See Tr. Sept. 28, 2006, at 126-30.

88. The Commission also disagrees with the ANC's contention that the requested Zoning Map amendment is unjustified and uses the PUD process to circumvent the intent and purposes

of the Zoning Regulations. The requested C-3-C and C-4 zoning is not inconsistent with the Campus Plan, the Comprehensive Plan and the character of the campus and surrounding area. See FOF 49. The PUD provides the flexibility needed to permit the targeted increases in height and density, which allows for the retention of historically-sensitive areas of the campus, lower heights adjacent to existing residential neighborhoods (particularly to the west of campus), and the substantial University commitments regarding limits on off-campus uses and acquisition. See FOF 53, 56-57, 59-61.

89. The Commission also disagrees with the ANC regarding its assertion that any density increase in excess of that permitted by Section 210 as a matter of right will necessarily violate Section 210. Section 210 of the Zoning Regulations only applies to residentially-zoned properties, and the University's proposed density for the remaining residentially-zoned portions of the campus of 3.69 FAR is well within the permitted density of 4.5 FAR under a PUD for properties zoned R-5-D. As stated in the Conclusions of Law, the use of the PUD process is an appropriate land use tool for the Foggy Bottom campus. The Commission credits the testimony of the FBA's planning expert that there is no specific density established for the University's campus by the Generalized Land Use Map of the Comprehensive Plan. Tr. Sept. 28, 2006, at 115.

90. The Commission also disagrees with the ANC that there is no indication that satellite campuses have been considered by the University. To the contrary, the University utilizes satellite campuses, and the Commission credits the testimony of the University regarding its existing satellite campuses both in the District at its Mount Vernon campus and in northern Virginia at its Loudoun County campus. See also Tr. Sept. 21, 2006, at 194. The Commission agrees with the University that, in light of the increasingly important role satellite campuses play in the delivery of higher education, the determination of whether a student enrolled in a creditable course at GW should be included in the definition of Foggy Bottom student enrollment should be based on whether that student maintains a *primary relationship* with the Foggy Bottom campus (as the term *primary relationship* is discussed and detailed more fully in Exhibit B of the Applicant's September 21, 2006 supplemental filing). Ex. 99. The Commission notes that other institutions of higher education in the District of Columbia with satellite campuses do not count the students at such satellite locations within the applicable population counts for the main campus. For these reasons, the Commission affirms the Foggy Bottom student enrollment methodology set forth by the Applicant and OP. See Tr. Sept. 28, 2006 at 142.

91. The Commission disagrees with the ANC that the Applicant's plan is lacking due to the omission of the Square 80 (School Without Walls) PUD and the Square 54 PUD. The University has submitted a plan for developing the campus of a whole as required by 11 DCMR § 210.4. The proposed Campus Plan includes the height, bulk, traffic and parking impacts of the recently-approved Square 80 (School Without Walls) and proposed Square 54 developments, even though these projects were each properly submitted for review by the Commission as separate consolidated PUD applications. See FOF 18.

92. The Commission disagrees with the ANC position regarding the preparation of an EIS. It is well-established in the District that the determination of whether an EIS is required occurs at the building permit stage, and that such a determination is not required as a condition precedent to any zoning decision. See FOF 7.

93. The Commission finds that the ANC's position regarding the text amendment is moot because the proposed text amendment was dismissed. See FOF 5.

94. The Commission credits the testimony of the ANC regarding the benefits of the historic preservation plan. The Commission also credits the testimony of the FBA's planning expert that the historic district, streetscape plan, and retail corridor represent amenities. Tr. Sept. 28, 2006, at 85-87.

95. The Commission credits the testimony of the Applicant and OP regarding the collaborative planning effort that led to the development of the Campus Plan. See FOF 22 – 27. Further, the Commission finds that the carefully balanced and closely interrelated nature of the various components of the Campus Plan, proffered amenities and conditions of approval taken as a whole result in an overall plan for the future of the Foggy Bottom campus that provides shared benefits for all stakeholders.

CONCLUSIONS OF LAW

Compliance with Campus Plan Regulations

The Applicant is seeking special exception approval, pursuant to sections 210 and 3104 of the Zoning Regulations, for approval of a new campus plan for a period of 20 years. The Zoning Commission is authorized to grant a special exception where in the judgment of the Commission based on a showing through substantial evidence, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. D.C. Code § 5-424(g)(2); 11 DCMR § 3104.1.

The Zoning Regulations specify that the application must be for the “campus as a whole.” 11 DCMR § 210.4. The Commission concludes that the Applicant has met this requirement; specifically, the Applicant has included the use, height, bulk, parking, and zoning of the development of the entire Foggy Bottom campus, including specifically the site which was the subject of the joint DCPS/GW “School Without Walls” project in Square 80, recently approved by the Zoning Commission as a consolidated PUD in Case No. 06-17, and Square 54, which is currently the subject of a consolidated PUD before the Commission in Case No. 06-27. See Tr. Sept. 21, 2006 at 86-87; see also Tr. Sept. 28, 2006, at 120-24.

The Zoning Regulations specify that use as a university in a residential zone shall 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. 11 DCMR § 210.2 In reviewing and deciding a campus plan application, the Commission must consider relevant policies of the District Elements of the Comprehensive Plan. 11 DCMR § 210.7. The Ward 2 Element of the Comprehensive Plan provides that “the University must work closely with the Foggy Bottom community on developing a campus plan. The campus plan should include sufficient dormitory space for the student body on campus to alleviate some of the pressure on housing by students.” 10 DCMR § 1327.1(b).

The Commission concludes that the Applicant has met its burden of showing that the university use will not be objectionable to neighboring property. The Applicant, through its community based planning process, has worked closely with the Foggy Bottom community and the resulting Plan provides additional student housing on campus, in excess of the Campus Plan housing requirement. The Commission further concludes that the proposed conditions will minimize any impacts from existing conditions. Finally, the Commission concludes that the proposed development plan, including the PUD, rezoning and concentration of development primarily at the campus core, will, in conjunction with the proposed conditions, minimize potential impacts from future Campus Plan developments.

The Commission concludes further that the Applications may be considered notwithstanding the fact that the Campus Plan 2000 – 2009 has not yet expired. There is no requirement in the Zoning Regulations that would prohibit the filing or approval of a new campus plan prior to the expiration of an existing campus plan. The Commission retains the inherent authority to approve a new plan at any time when it determines that such a plan will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps.

Student Enrollment

The Zoning Regulations specify that the number of students is one factor that the Commission must take into account when assessing whether a university use in a residential zone is likely to become objectionable to the neighboring property. See 11 DCMR § 210.2. The Commission notes that other institutions of higher education in the District of Columbia with satellite campuses do not count the students at such satellite locations within the applicable population counts for the main campus. Given the nature of the delivery of education in a complex institution of higher education with multiple campuses and learning centers, the Applicant has proposed a Foggy Bottom campus enrollment methodology that is based upon whether a student enrolled in a creditable GW course maintains a *primary relationship* with the Foggy Bottom campus (as the term *primary relationship* is discussed and detailed more fully in Exhibit B of the Applicant's September 21, 2006 supplemental filing). The Commission concludes that the Foggy Bottom student enrollment methodology set forth by the Applicant and OP provides the appropriate standard by which to measure student impacts associated with the Foggy Bottom Campus Plan.

Furthermore, the Applicant has demonstrated that it has minimized the impact of the number of Foggy Bottom students on the surrounding residential neighborhoods through its compliance with the existing Campus Plan student housing conditions. The Commission concludes that these conditions should be carried forward to the proposed Campus Plan in order to continue to mitigate the impact of the number of students on neighboring property.

Off-Campus Properties

The Applicant has also proposed new conditions that require the University to transition the use of existing off-campus undergraduate student housing facilities to uses other than undergraduate housing and restrict the University from purchasing off-campus properties in residentially-zoned areas of the Foggy Bottom/West End area for other than investment purposes. These conditions are in direct response to explicit requests made by members of the community and ANC 2A. The Commission concludes that the Campus Plan conditions proposed by GW and OP adequately address the issues of university uses in residential zones off-campus which have been source of concern predating the existing Campus Plan 2000–2009, as well as other issues and concerns raised by ANC 2A.

Substantial Compliance

The Commission concludes the arguments of the ANC/FBA and ZA regarding the term “substantial” are not persuasive. As detailed by the Applicant in its November 15, 2006 supplemental filing, there are numerous examples of provisions of the Zoning Regulations that use both the precise phrase “substantial compliance” (including the Foggy Bottom Campus Plan 2000 – 2009 order and the current American and Georgetown University campus plan orders), as well as phrases similar in intent. These examples demonstrate that the ZC, BZA, and the ZA each have a long-standing history of appropriately exercising their judgment in interpreting the meaning of “substantial compliance.” While a more simplistic, formulaic approach of requiring strict numeric compliance under certain Campus Plan conditions may appear easier to enforce, the complexities of the various compliance issues of each of the 26 proposed conditions necessitate the exercise of discretion and judgment under the “substantial compliance” standard in connection with these Applications.

Appropriateness of PUD Zoning Mechanism

The Commission concludes that the PUD process is an appropriate means of controlling future development of the Foggy Bottom campus in a manner consistent with the best interests of the District of Columbia. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality developments that provide public benefits. 11 DCMR § 2400.1. The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project “offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare and convenience.” 11 DCMR § 2400.2. The Commission has found that the *Foggy Bottom Campus Plan: 2006 – 2025* and accompanying First-Stage PUD offer specific community benefits that significantly advance the public interest.

The Zoning Regulations do not prohibit the application of the PUD process to a campus plan. Further, Section 2405.7 of the Zoning Regulations expressly permit the Commission to approve any use that is permitted as a special exception, including campus plans, and Section 2405.8 permits the Commission to approve any use without even applying the special exception standards. In fact, the PUD process supplements and enhances the protections afforded by the campus plan regulations: it identifies specific development sites, provides for detailed design review with each second-stage PUD consistent with the conceptual height, density, and use parameters established in the first-stage, and offers substantial project amenities and public benefits in exchange for a higher overall height and density and design flexibility.

The Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, penthouse setback, or yards or courts. Specifically, the PUD process, either through individual PUDs or comprehensively as proposed, can be used by the Commission to increase the density of a campus above that allowed under Section 210. Section 210.3 aggregates the FAR of the residentially-zoned areas of a campus to a total based on the allowable FAR in the district, and not to a specific number (e.g., 3.5). In this case, the R-5-D district that comprises most of the Foggy Bottom campus has a maximum matter of right density of 3.5 FAR, with a maximum density of 4.5 FAR achievable through the PUD process. Section 210.3 clearly states

that the density limit is “the gross floor area prescribed by the R-5-D district” but does not preclude use of the PUD process to increase the allowable density within an approved campus plan.

Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to consider this application as a two-stage PUD. The two-stage PUD process is appropriate in this case as it involves a large site with multiple building types and complex site planning, transportation, and urban design issues.⁶ This first-stage order governs site identification, land use planning, traffic and parking, and similar broad issues. The second-stage PUD process will consist of reviews of more detailed development plans and a determination of consistency with the intent and standards of this first-stage PUD order. Recent examples of approved first-stage PUDs applied to large tracts with multiple building types and complex site planning, transportation, and design issues include Z.C. Order No. 969, Oct. 17, 2002 (MedStar Health—Washington Hospital Center: 33.53 acres); Z.C. Order Nos. 03-12/03-13, Feb. 6, 2004 (Arthur Capper/Carrollsborg: 33 acres); Z.C. Order No. 02-38, July 31, 2003 (Waterside Mall: 13.42 acres); and Z.C. Case No. 05-28, June 12, 2006 (Parkside: 15.5 acres) (order pending).

PUD Term and Vesting

Pursuant to section 2407.10 and 2407.11 of the Zoning Regulations, the Commission has the authority to specify the period of approval for a first-stage PUD and to provide that the rights and conditions associated with the PUD shall remain in effect for the duration of the full term. The first-stage PUD will have a term of twenty years consistent with the duration of the Campus Plan. At the time each development project under the Campus Plan is approved through the second-stage PUD process, the underlying zoning and density associated with that particular development site shall permanently vest. Notwithstanding the foregoing, *all* of the densities and rezonings set forth in the first-stage PUD will permanently vest at such time as seventy percent of the gross floor area of the proposed development plan has been approved through a second-stage PUD within the twenty-year term of the first-stage PUD. In the event the 70 percent threshold is not achieved within the twenty-year term of the first-stage PUD, the remaining approved densities and rezonings would expire at the conclusion of the first-stage PUD, unless otherwise ordered by the Commission or successor zoning authority. This vesting provision will provide reasonable assurance that the development plan set forth in the Campus Plan and first-stage PUD can be achieved, and will provide the University with the requisite level of certainty necessary to maintain intact all of the proposed commitments, benefits and amenities included in the Applications.

⁶ The Foggy Bottom campus is a suitable PUD site, and the proposed PUD meets the minimum area requirements of 11 DCMR § 2401.1. The Zoning Regulations do not specify a maximum area requirement. The Commission has recently approved first-stage PUDs applying to tracts measuring 33.53 acres (Z.C. Order No. 969) and 33 acres (Z.C. Order Nos. 03-12/03-13).

Compliance with PUD Regulations

The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that will offer a variety of building types with more efficient and attractive overall planning and design not achievable under matter-of-right development. The character, scale, mixture of uses and design of uses in the proposed PUD are appropriate, and the proposed development is compatible with the citywide, ward, and area plans of the District of Columbia as detailed below. Furthermore, the development plan set forth in the Campus Plan and PUD is within the applicable height and bulk standards of the Zoning Regulations. The height and density will not cause an adverse effect on nearby properties, and the campus is well served by major arterial streets, numerous bus lines, and an on-site Metrorail station.

The impact of the proposed PUD on the surrounding area and upon the operation of city services and facilities is acceptable given the quality of public benefits in the project. The proposed PUD will be approved with accompanying conditions that ensure that the development will enhance the neighborhood and ensure neighborhood stability. First-stage approval of the PUD Application will promote the orderly development of the campus in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Zoning Map of the District of Columbia.

The Commission finds that the Campus Plan and accompanying PUD includes a public benefits and community amenities package that provides superior features that benefit the surrounding neighborhood to a significantly greater extent than development under the campus plan regulations alone would provide. The approval of the Campus Plan and accompanying PUD is not inconsistent with the Comprehensive Plan or with other adopted policies and programs related to the campus.

The proposed PUD and Zoning Map amendment is consistent with the Major Themes of the Comprehensive Plan, especially those relating to stabilizing and improving the District's neighborhoods, respecting and improving the physical character of the District, and preserving the historic character of the District. The proposed PUD also furthers the objectives and policies of several of the Major Elements of the Comprehensive Plan:

- the Urban Design Element, through the preservation and enhancement of the outstanding physical qualities of District neighborhoods, use of appropriate arrangements of height, scale, mass, and buffering to complement the immediate region, development of a unifying system of well-designed streets and sidewalks, creation of a visually interesting environment in the public space that attracts people and stimulates redevelopment and commerce, respect of boundaries of areas having strong architectural character, both within the campus and relative to the Foggy Bottom/West End neighborhood;
- the Preservation and Historic Features Element through the continued appropriate use of historic properties, protection of the established form of development in historic districts, protection of the integrity of historic properties, and new construction that is compatible with the historical architectural character of the historic landmarks and district; and

- the Land Use Element, by encouraging the development of adequate neighborhood shopping, protecting residential neighborhoods from disruptive uses, assuring neighborhood stability as non-government institutions grow, promoting the continued contributions by private institutions toward the economic and cultural vitality of the District, and recognizing the specialized land needs and unique economic and human development opportunities presented by colleges and universities.

Finally, the project is highly consistent with the objectives of the Ward 2 Element, including:

- the alleviation of pressures caused by students on the housing stock outside the boundaries of the Campus Plan through the continued construction of on-campus student dormitories, the commitment not to purchase residentially-zoned properties outside the Campus Plan, and the commitment to end the use of existing off-campus facilities as undergraduate residences;
- the inclusion of improvements in landscaping, lighting, and enhanced community policing in the Campus Plan;
- the improvement of the land use mix and urban design qualities of areas around the Foggy Bottom-GWU Metrorail station;
- the development of new businesses, with a special emphasis on small and minority business development, compatibility of businesses with adjacent residential neighborhoods, and mixed-use residential and commercial uses;
- the utilization of the potential of the District's universities to create an expanded center of knowledge and learning in the center of Washington; and
- the designation of buildings and areas in Ward 2 meriting historic landmark and historic district protection, and preservation and reuse of historic landmarks and buildings in historic areas in Ward 2.

ANC 2A

The Commission is required under D.C. Code § 1-308.10(d) (2001) to give *great weight* to the issues and concerns raised in the recommendations of the affected ANC. The Commission has considered the position of ANC 2A. As set forth above in the Findings of Fact, the Commission finds the ANC's arguments are not persuasive.

- First, the Commission concludes that the University is in compliance with the student enrollment cap, based on the determination of the Zoning Administrator and supporting results of a voluntary independent audit that was conducted and submitted into the record on September 14, 2006. In addition, the Commission concludes that any alleged noncompliance would not be a basis for denying the application for a new Campus Plan.
- Second, the Commission concludes that the PUD and Zoning Map Amendment processes may be applied within the context of the campus plan regulations. Indeed, the Commission notes that three projects within the Foggy Bottom Campus Plan boundaries were developed

pursuant to the PUD process⁷, and a fourth was recently granted approval. Further, the two-stage PUD process offers the Commission an opportunity to address campus development in a comprehensive and thorough manner and specifically allows the Commission to identify individual development sites and designate where additional height and density is most appropriate. Finally, the Commission concludes that the requested zoning map amendment is consistent with the Campus Plan, the Comprehensive Plan, and the character of the campus and surrounding area, and enables the University to target increased density in its central campus core and away from historically sensitive areas of campus and surrounding residential neighborhoods.

- Third, the Commission concludes that the density increase requested by the University does not violate the limits of Section 210. Section 210 only applies to residentially-zoned property within the boundaries of an approved campus plan, and the University's proposed density for the remaining residentially-zoned portions of the campus of 3.69 FAR is well within the permitted density of 4.5 FAR under a PUD for properties zoned R-5-D.
- Fourth, the Commission concludes that GW has made appropriate use of satellite campuses to manage its growth, including the Mount Vernon and Virginia campuses. In light of the increasingly important role that satellite campuses play in the delivery of higher education, the determination of whether a student enrolled in a creditable GW course should be included in the definition of Foggy Bottom student enrollment, is properly based on whether that student maintains a *primary relationship* with the Foggy Bottom campus (as the term *primary relationship* is discussed and detailed more fully in Exhibit B of the Applicant's September 21, 2006 supplemental filing). For this reason, the Commission concludes that the Foggy Bottom student enrollment methodology set forth by the Applicant and OP provides the appropriate standard by which to measure student impacts associated with the Foggy Bottom Campus Plan.
- Fifth, the Commission concludes that the University has submitted a plan for developing the campus of a whole as required by 11 DCMR § 210.4. The Campus Plan includes the height, bulk, traffic and parking impacts of proposed developments for the entire campus, including the recently-approved Square 80 (School Without Walls) project and the pending Square 54 PUD.
- Sixth, as to the argument that an EIS is required, the Zoning Commission and Board of Zoning Adjustment have both repeatedly held—and the D.C. Court of Appeals has affirmed—that environmental review is part of the building permit review process, not the zoning review process, and therefore takes place subsequent to any review by the Zoning Commission or Board of Zoning Adjustment. As stated at the opening of the instant proceedings, on a preliminary motion regarding this issue:

I think our position should be as it has been in the past that this is –
that we are not the lone agency in these matters. This has been

⁷ These properties include 2000 Pennsylvania Ave., N.W. (Z.C. Order No. 339), 1957 E St., N.W. (Z.C. Order No. 712), and the Potomac House (Z.C. Order No. 03-29).

actually litigated a couple of times whether it should, in fact, be done at this stage. And I don't think we need to revisit it. And I would move that we deny the motion to postpone the case pending preparation. Tr. Sept. 14, 2006, at 9 (emphasis added).

The Commission voted 5-0-0 to dismiss the motion. The issue was also raised in Case No. 03-29, an application by The George Washington University for consolidated review and approval of the recently-constructed Square 103 residence hall. When counsel for Advisory Neighborhood Commission ("ANC") 2A argued that preparation of an EIS was important for the Commission's consideration of the proposed consolidated PUD, the Chairperson of the Commission explained that environmental review is part of the building permitting process and not part of the review that takes place before the Zoning Commission.

- Seventh, the Commission concludes that the ANC and WECA's positions regarding the text amendment are moot because the proposed text amendment was dismissed.

Spot Zoning

Finally, the Commission concludes that the commercial rezoning included in the Map Amendment does not constitute "spot zoning". The rezoning is consistent with the Comprehensive Plan, and is in keeping with the high density character of the surrounding area. The additional density provided by the rezoning makes possible the significant amenities proffered by the Applicant for the benefit of the public, including the historic district and Campus Plan conditions restricting the University's use and acquisition of off-campus properties. Accordingly, the rezoning does not meet the standards for spot zoning established by the courts. See, e.g., Daro Realty, Inc. v. D.C. Zoning Comm'n, 581 A.2d 295 (D.C. 1990).

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia orders **APPROVAL** of the applications for special exception approval of the *Foggy Bottom Campus Plan: 2006 – 2025* (“**Campus Plan**”) and first-stage review of a planned unit development (“**Campus Plan PUD**”) and related amendment to the Zoning Map for The George Washington University Foggy Bottom Campus.

The approval of the Campus Plan is subject to the proposed conditions of approval of the *Foggy Bottom Campus Plan: 2006 – 2025* as set forth in Appendix A hereto. Furthermore, the Campus Plan PUD is subject to the following conditions:

1. The development sites shall be limited to those identified in Exhibit A of the Campus Plan PUD.
2. This first-stage PUD approval by the Zoning Commission shall be valid for a period of twenty years from the effective date of this order. At the time each development project is approved through the second-stage PUD process, the underlying zoning and density associated with that particular development site shall permanently vest. Notwithstanding the foregoing, *all* of the densities and rezonings set forth in the first-stage PUD will permanently vest at such time as seventy percent of the gross floor area of the proposed development plan has been approved through a second-stage PUD within the twenty-year term of the first-stage PUD.
3. The zoning that shall accompany the PUD shall be consistent with that shown on Exhibit C of the Campus Plan PUD.
4. The additional gross floor area achieved under the PUD shall be consistent with the Tabulation of Development Data detailed in Exhibit B of the Campus Plan PUD.
5. The lot occupancy for each development site shall be consistent with the Tabulation of Development Data detailed in Exhibit B of the Campus Plan PUD.
6. The maximum building heights for the proposed development sites shall be consistent with Exhibit K of the Campus Plan.
7. The University shall submit a second-stage PUD application for each development site identified in Exhibit A of the Campus Plan PUD consistent with Condition 6 of the Campus Plan and subject to Condition 7 of the Campus Plan.
8. No building permit shall be issued for this PUD until the Applicant has recorded a covenant among the land records of the District of Columbia between the owners and the District of Columbia that is satisfactory to the Office of the Attorney General for the District of Columbia and the Zoning Division of the Department of Consumer and Regulatory Affairs (“**DCRA**”). Such covenant shall bind the Applicant and all successors in title to construct on or use the property in accordance with this order and any amendment thereof by the Zoning Commission.

9. The Office of Zoning shall not release the record of this case to the Zoning Division of DCRA until the Applicant has filed a copy of the covenant with the records of the Zoning Commission.
10. The zoning designations approved herein shall not become effective until the covenant required by 11 DCMR 2409.3 has been recorded.
11. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code section 2-1401.01, et seq. (Act). The District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant to comply shall furnish grounds for the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this order.

On _____, 2006, the Zoning Commission approved the application by a vote of _____. This order was adopted by the Zoning Commission at its public meeting held on _____, by a vote of _____.

In accordance with the provisions of 11 DCMR § 2038, this order shall become final and effective upon publication in the D.C. Register; that is, on _____.

 Carol J. Mitten, Chairman
 Zoning Commission

 Jerrily R. Kress, FAIA
 Director, Office of Zoning

Appendix A

Conditions of Approval of the *Foggy Bottom Campus Plan: 2006 - 2025*

The Campus Plan conditions proposed by GW and the Office of Planning are the result of many hours of collaboration and effort, informed by community input and feedback. This effort was aimed not only to clarify and strengthen the language of conditions from the Campus Plan 2000 – 2009, but also to develop additional conditions that, together with the other components of the Campus Plan, provide a carefully balanced and closely integrated overall plan for the future of the Foggy Bottom campus. The result is a comprehensive Campus Plan and proposed conditions of approval which together provide shared benefits and an appropriate level of certainty for all stakeholders.

The conditions are substantially consistent with Exhibit Y of the Campus Plan and the OP setdown and final reports to the Zoning Commission (Ex. 23, 51), with limited changes to the following conditions, in response to issues raised throughout the Campus Plan hearings and filings submitted by West End Citizens Association (Ex. 206) and the Foggy Bottom Association/ANC 2A (Ex. 207):

- Condition 6 (regarding an established notice period to the Advisory Committee with respect to of second-stage PUD applications)
- Condition 8 (regarding contract purchaser transactions with respect to the acquisition of off-campus properties)
- Condition 11 (regarding the faculty and staff population definition)
- Condition 17 (regarding publication of “hotline” information)
- Condition 20 (regarding the implementation of the Historic Preservation Plan)
- Condition 21 (regarding the implementation of the Streetscape Plan)
- Condition 22(d) (regarding the student parking policy)
- Condition 23 (regarding the Transportation Management Plan)
- new Condition 24 (regarding potential second entrance for Foggy Bottom-GWU Metrorail station)
- new Condition 27 (regarding compliance with conditions requiring the action of third parties)
- new Condition 28 (regarding the Applicant’s submission of a revised copy of the Campus Plan and Campus Plan PUD)
- and renumbered Conditions 25 and 26 (as a result of new Condition 24).

Additional language is noted in brackets so it can be clearly identified.

GENERAL CONDITIONS

1. The Applicant’s proposed campus plan replaces the George Washington University Foggy Bottom Campus Plan: Years 2000 through 2009. This campus plan is approved until June 30, 2025, subject to the following conditions, or until such time prior to June 30, 2025 as the Zoning Commission determines that conditions warrant submission of a campus plan amendment or an updated campus plan.

In light of the level of planning involved in this plan as well as the scope of the proposed development and the commitments the University has made, the twenty-year term is appropriate. The twenty-year term, coupled with the vesting provision of the Campus Plan PUD, will provide reasonable assurance that the development plan set forth in the Campus Plan and first-stage PUD can be achieved, and will provide the University with the requisite level of certainty necessary to proffer all of the proposed commitments, benefits and amenities included in the Applications. The twenty-year term also provides members of the community with a level of certainty and predictability with respect to future campus development, and establishes the same long-term time horizon with respect to the proposed conditions limiting the future use and acquisition of off-campus properties.

2. The Applicant will not initiate litigation challenging Zoning Commission action which approves the Foggy Bottom Campus Plan: 2006 – 2025 as submitted by the University, including these Conditions 1-26, so long as such approval is not contingent on additional conditions to which the Applicant has not specifically agreed.

The Office of Planning strongly advocated for the inclusion of this condition to reinforce the University's commitment to the Foggy Bottom Campus Plan: 2006 – 2025 and proposed conditions which together represent the joint effort of GW, OP and the community to identify and address as many issues as possible and create an overall Plan that benefits all stakeholders. It is in all parties' best interests to avoid protracted litigation in the future, and this collaboratively-developed and balanced Plan and the accompanying conditions provide that opportunity.

3. The campus plan boundary for the Foggy Bottom Campus Plan: 2006 – 2025 shall remain consistent with the campus plan boundary established by the Board of Zoning Adjustment with respect to the Foggy Bottom Campus Plan: Years 2000 through 2009 (Order No. 16553-1). The properties included within the Foggy Bottom Campus Plan boundary are depicted in Exhibit I of the proposed Foggy Bottom Campus Plan: 2006 – 2025 and are specifically identified and listed in Appendix 2 attached hereto.

From the earliest stages of this process, the development plan set forth in the Foggy Bottom Campus Plan: 2006 – 2025 has been aimed at accommodating GW's forecasted academic and student housing space needs within the Campus Plan boundaries. In an effort to maintain consistency with the existing Campus Plan where possible, the Campus Plan does not make any changes to the existing Campus Plan boundaries.

4. New development on campus resulting in additional density or change in use shall substantially conform with the approved campus plan (as set forth in Condition 1), with the exception of minor renovation projects including those necessary to address building code compliance.

As a result of the PUD zoning mechanism, future campus development is limited to those locations identified in the development plan and PUD, providing certainty and predictability to all stakeholders with respect to future campus development. The only limited exception to the application of this requirement is for minor renovation projects (e.g., the addition of an elevator or stair tower necessary for building code compliance or other exigent circumstances) that do not result in a substantial increase to the overall campus gross floor area. Under the existing

Campus Plan regulations alone, the University would not be subject to this level of specificity with respect to the location of new campus development.

5. The University shall notify the Office of Planning, ANC 2A, and the Advisory Committee (established pursuant to Condition 9) of its intent to develop a specific site on campus, following approval of the development proposal by appropriate University committees and the University's Board of Trustees, and prior to preparation of final detailed plans and specifications.

This condition reflects the University's commitment to continue its engagement with District agencies and interested stakeholders, including members of the Foggy Bottom and West End communities, with respect to future campus development projects. This collaboration has resulted in significant and positive changes to the development plan as it evolved throughout the planning process. The condition further underscores the need for an active Advisory Committee to provide a forum for continued discussion moving forward as the Campus Plan is implemented.

6. The University shall submit a second-stage Planned Unit Development application for each new development the University proposes over the term of the Foggy Bottom Campus Plan: 2006 – 2025. Each application shall include the following:
 - a. Demonstration of compliance with applicable provisions of the zoning regulations and the contents of the approved Foggy Bottom Campus Plan: 2006 – 2025;
 - b. A showing that the use, height, bulk, and design (including the location of any means of ingress and egress) of the proposed structure is sensitive to and compatible with adjacent and nearby non-University-owned structures and uses;
 - c. An indication of any need for, amount of, and proposed locations of interim leased space necessary to accommodate housing and/or activities displaced by construction and/or activities intended to be located permanently in the completed structure;
 - d. A report recalculating the University's total FAR within the campus plan boundaries, which shall also be submitted directly to the Office of Zoning and the Zoning Administrator. Information included in the report shall be broken down by zoning district and include the following: existing FAR, FAR under development pursuant to Commission approval, and FAR upon completion of proposed structure;
 - e. The most recent Foggy Bottom Campus Plan Compliance Report (as set forth in Condition 25) evidencing compliance with the approved Foggy Bottom Campus Plan: 2006 – 2025, including the most recent reported counts of Foggy Bottom student headcount, Foggy Bottom student full-time equivalent, Foggy Bottom faculty and staff headcount, Foggy Bottom faculty and staff full-time equivalent, full-time Foggy Bottom undergraduate students, on-campus beds, and full-time

Foggy Bottom undergraduate students residing in the Foggy Bottom/West End Area outside of the campus plan boundaries;

- f. A progress report on the implementation of the streetscape plan required by Condition 21;
- h. The number of off-street parking spaces within the campus plan boundaries as set forth in Condition 22(b) as of 30 days prior to the application date, including documentation and an explanation of the methods and assumptions used in counting the parking spaces;
- i. A status report on the Transportation Management Program required by Condition 23; and
- j. Demonstration that the project has been presented to the Advisory Committee (as the Committee is defined in Condition 9 herein) for consideration[, at a regularly scheduled or specially-called Advisory Committee meeting, at least 30 days prior to the filing of such an application.]

This condition specifies the second-stage PUD filing requirements for each future campus development project (in addition to the statutory requirements). These additional requirements included at the suggestion of the Office of Planning, will provide additional relevant information to readily demonstrate the University's compliance with key Campus Plan conditions for the benefit of the Zoning Administrator, Zoning Commission, ANC 2A, Advisory Committee, and other interested stakeholders. This condition reinforces that continued and consistent transparency with respect to the reporting of clearly-specified data will help maintain the confidence of all parties in the implementation of the Campus Plan through the District's regulatory process.

In response to a comment raised by WECA, a minimum thirty-day notice period has been defined with respect to presentation of a second-stage PUD project to the Advisory Committee (subsection j).

- 7. No PUD application filed by the University for second-stage review under the Foggy Bottom Campus Plan: 2006 – 2025 may be granted unless the University is in substantial compliance with Conditions 1-26 set forth herein as demonstrated by the most recently filed Foggy Bottom Campus Plan Compliance Report submitted to the Zoning Administrator. Further, any violation of these Conditions shall be grounds for the denial of any building permit or certificate of occupancy applied for by the University for any University building or use, and may result in the imposition of fines and penalties pursuant to the Civil Enforcement Act, D.C. Code §§ 6-2701 to 6-2723.

Condition 7 carries forward the final condition of the 2000 Campus Plan providing recourse for the Zoning Administrator and Zoning Commission in the event GW should not maintain compliance with any condition of the Campus Plan. In his testimony, the Zoning Administrator indicated a preference to delete "substantial" from this condition. While understandable from

the perspective of simplifying future compliance monitoring, this modification does not adequately allow for the necessary flexibility to address the wide array of compliance issues that may arise with respect to the various conditions over the twenty-year term of the Campus Plan. Therefore, "substantial compliance" remains the appropriate standard upon which to measure Campus Plan compliance.

8. The University will not purchase, [either directly or as a contract-purchaser], additional residentially-zoned properties outside of the Campus Plan boundaries in the Foggy Bottom/West End area (defined as the area bounded by the Potomac River and Rock Creek Park to the west, N Street to the north, 19th Street to the east, and Constitution Avenue to the south) for university use. This commitment would not preclude the purchase of any properties for investment purposes; however, it would restrict the University from purchasing a residentially-zoned property within the above-defined area and changing its use to one limited to the University population. The University shall not include any such investment property in its undergraduate student housing program or otherwise directly refer undergraduate students to any such property.

Condition 8 includes a significant commitment made by the University at the behest of the Office of Planning with respect to the future acquisition and use of off-campus residentially-zoned properties within the Foggy Bottom/West End area. This condition also directly responds to concerns raised by ANC 2A in connection with the Campus Plan 2000 – 2009 case. The University is in a position to make this substantial commitment at this time as a result of the opportunities created by the scope of the proposed development plan, as well as the balance provided by the Campus Plan and proposed conditions as a whole.

In response to a question raised by counsel for ANC 2A and the Foggy Bottom Association, the language of the condition has been expanded to include contract purchaser transactions (see bracketed language above).

ADVISORY COMMITTEE

9. The University will work with community representatives to form an Advisory Committee for the purpose of fostering consistent communication between the University and the Foggy Bottom and West End communities, discussing issues of mutual interest and proposing solutions to problems that exist or arise in implementing the approved Foggy Bottom Campus Plan.
 - a. Key functions of the Advisory Committee include:
 - i. reviewing the University's compliance reporting;
 - ii. working with the Office of the Zoning Administrator to monitor compliance with the conditions of the Foggy Bottom Campus Plan; and
 - ii. reviewing new University proposals to develop sites on the Foggy Bottom Campus.
 - b. Composition, Administrative Procedures & Meeting Format
 - i. The Advisory Committee shall consist of ten members: five representatives of the University to be selected by GW and five representatives of the community to be selected by ANC 2A. The ANC

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

Condition 9 carries forward from the Campus Plan 2000 – 2009 the formation of an Advisory Committee. Such Advisory Committees are not unique to GW, and in fact are mandated under the American University, Georgetown University, Howard University, Gallaudet College, and George Washington University Mount Vernon Campus Plans.⁸ The continued discussion regarding the terms and definitions included in the Plan and proposed conditions that has resulted from the Campus Plan hearings is useful and beneficial to try to avoid confusion, misunderstanding and conflict in the future. However, none of the parties involved can predict with certainty all of the issues that may emerge with respect to future implementation of the Campus Plan. For these reasons, the Commission believes that the Advisory Committee is the appropriate forum for dialogue regarding these issues of mutual concern.

The University remains committed to forming an Advisory Committee. While the University supports the composition and format proposed by the Office of Planning (reflected in the proposed condition language above), GW is willing to consider other membership compositions and quorum requirements that would encourage and foster meaningful and sustainable communication between the University and the community. While the University has made substantial efforts in the past to initiate the Advisory Committee under the existing Campus Plan, these efforts have not resulted in community participation. Accordingly, in the event the membership or quorum requirements are modified, the language of the condition should also be

⁸ The most recent example – the American University Campus Plan, approved by the Commission in Z.C. Order No. 949 in July 2001 – provides, for example, for a "Liaison Committee" in order to "foster consistent on-going communication between the University and the surrounding neighborhoods, discuss issues of mutual interest, and propos[e] solutions to problems that exist or arise in implementing the approved campus plan." The condition recommends that the committee meet quarterly and that it be composed of an equal number of representatives of the University and community. It also permits the committee to request data relevant to campus plan issues from the university, provided it is "not confidential or overly burdensome to produce."

modified to indicate that failure of members of the community to participate in the Advisory Committee as structured by this Order shall not result in the University being deemed in non-compliance with this provision. Furthermore, in the event, the Advisory Committee as structured by this Order is not successful, the University shall convene quarterly community meetings to address the issues intended by the Commission, OP and the University to be raised in this forum.

FOGGY BOTTOM CAMPUS POPULATION

10. For the duration of this Plan, Foggy Bottom student headcount shall not exceed 20,000 students, and Foggy Bottom student full-time equivalent shall not exceed 16,553.
 - a. **Definition.** For the purposes of these Conditions, “Foggy Bottom student headcount” shall be defined as the number of GW students in the “Foggy Bottom/Mount Vernon Campus Total Student Body”⁹, minus: study abroad students, continuous enrollment students, students that reside at the Mount Vernon Campus, students that take all of their courses at the Mount Vernon Campus, and Foggy Bottom faculty and staff accounted for pursuant to Condition 11 herein who are also enrolled in one or more courses at the Foggy Bottom campus.
 - b. **Calculation of full-time equivalent.** For the purposes of these Conditions, “Foggy Bottom student full-time equivalent” shall be determined by assigning a fraction to part-time students included in the Foggy Bottom student headcount number based on the number of credits they are taking compared to a full-time course load and adding the number of full-time students. Currently, the full-time course load for undergraduates is 12 credits, and the full-time course load for graduate and professional students is 9 credits. Formulas for determining full-time equivalents may change over the term of the proposed Foggy Bottom Campus Plan depending on program requirements or the restructuring of the academic calendar.
 - c. **An audit of the Foggy Bottom student headcount and Foggy Bottom student full-time equivalent reported pursuant to Condition 25 herein shall be conducted in a manner and by a firm previously approved by the Zoning Administrator and reported to the Advisory Committee. The audit shall be completed by January 10 of the year following each report submitted pursuant to Condition 25 herein.**All Foggy Bottom student counts shall be reported biannually as specifically set forth in Conditions 25 and 26.

Condition 10 carries forward the student population cap established in 1985 and affirmed again in the 2000 Campus Plan. As detailed more fully in Exhibit B of the University’s September 21, 2006 supplemental filing (Ex. 99), the methodology for determining Foggy Bottom Total Student Body Headcount is fundamentally premised on the established IPEDS definition of student enrollment, i.e., whether a student is enrolled in a creditable course, regardless of location. This broad and inclusive standard is adjusted to identify students whose primary relationship is with the Foggy Bottom campus (as the term primary relationship is discussed in the same exhibit). As

⁹ The “Foggy Bottom/Mount Vernon Campus Total Student Body” is compiled by the GW Office of Institutional Research (OIR) and is currently reported on the OIR online “GW Factbook” available at www.gwu.edu/~ire/.

a result, the methodology appropriately balances the considerations of District zoning law with the realities associated with the delivery of education by a complex, modern university.

The Mount Vernon Campus Plan is subject to its own enrollment caps which include (a) undergraduates who are residents of Mount Vernon and (b) students who do not reside on the Foggy Bottom campus and take courses at Mount Vernon. The University has consistently excluded students counted under the Mount Vernon Campus Plan (including Mount Vernon resident students and non-resident/commuter students) from the Foggy Bottom Total Student Body Headcount.¹⁰ However, after extended review and evaluation of various GW student enrollment categories with the Office of Planning, the methodology was adjusted to include all Mount Vernon non-resident/commuter students who also take classes at the Foggy Bottom campus in the Foggy Bottom Total Student Body Headcount. Students who reside or take all of their classes at Mount Vernon will continue to be counted as Mount Vernon students and be excluded from the Foggy Bottom Total Student Body Headcount. See Office of Planning Final Report at 12, September 5, 2006 (Ex. 51).

11. For the duration of this Plan, the Foggy Bottom faculty and staff population shall not exceed a total of 12,529 on a headcount basis, and 10,550 on a full-time equivalent basis.
 - a. For the purposes of these Conditions, “Foggy Bottom faculty and staff headcount” shall include: regular full-time faculty and staff; regular part-time faculty and staff; wage account staff that are not Foggy Bottom students accounted for pursuant to Condition 10; temporary part-time faculty (excluding part-time clinical faculty who are not paid employees of the University); [affiliated faculty employed by the Medical Faculty Associates]; and visiting instructional and research faculty. For the purposes of these Conditions, Foggy Bottom faculty and staff shall not include faculty and staff whose primary office locations are not on the Foggy Bottom campus; employees of non-GW owned or controlled entities which are located on the Foggy Bottom campus; and contractors that provide ancillary campus-related service functions who are not employees of the University.
 - b. For the purposes of these Conditions “Foggy Bottom faculty and staff full-time equivalent” shall be determined by assigning a fraction to part-time employees included in the Foggy Bottom faculty and staff headcount number based generally on the number of hours worked as compared to the standard full-time 40 hour work week.
 - [c. As part of the report required in connection with each second stage Planned Unit Development application (as set forth in Condition 6), GW shall provide a list of any “outsourcing activities” that have occurred since the last second stage application. For the purposes of these Conditions, an “outsourcing activity” shall be defined as termination within any thirty-day period of 50 or more Foggy

¹⁰ This is not an unusual practice; most of the universities in the District of Columbia have multiple campuses, and the BZA and Zoning Commission orders for those universities provide enrollment and faculty/staff caps for each of the campuses. Howard University, for example, has four campuses, including three in the District of Columbia (Central Campus, West Campus and East Campus), and the enrollment cap for the Central Campus does not include students at the other campuses.

Bottom faculty or staff who are assigned to a specific University department or unit and are permanently replaced with contractors or other persons not employed by the University to perform on the Foggy Bottom campus the services of the terminated faculty or staff.]

Condition 11 carries forward the faculty and staff population caps established in the 1985 Campus Plan and affirmed again in the Campus Plan 2000 – 2009. The faculty and staff populations have been combined into a single Foggy Bottom campus faculty and staff population cap, to alleviate the complexities associated with distinguishing between various categories of faculty and staff, and to allow the University to report its faculty and staff population in a manner more consistent with its existing business processes with respect to tracking University employees. This combined cap will not have any impact on the Foggy Bottom student population, which is governed by its own cap as set forth in Condition 10. The additional flexibility afforded by this change will allow the University to respond to evolving educational and operational needs over the next twenty years without creating the potential for any additional impacts related to campus populations beyond that which has already been approved in existing and prior Campus Plans.

Changes to the originally-proposed Condition 11, based on ongoing conversations with various stakeholders and the Office of Planning, include the following (noted above in brackets):

- *On a going-forward basis, affiliated faculty employed by Medical Faculty Associates will be included in the Foggy Bottom campus faculty and staff population. Although these individuals are not employees of the University, this particular sub-set of affiliated faculty conduct instructional activities almost entirely on the Foggy Bottom campus (as their clinical office location and any instructional location are located on the Foggy Bottom campus) and instruct medical students at all levels of education (first through fourth years). These individuals are distinct from other affiliated faculty whose instruction is limited to third and fourth year medical students and whose clinical and instructional locations are outside of the Foggy Bottom/West End area.*
- *The language included in subsection c addresses the issue of “outsourced” employees in connection with Campus Plan compliance reporting, as described in the Applicant’s December 21, 2006 filing (Ex. 240).*

ON-CAMPUS UNDERGRADUATE STUDENT HOUSING

12. For the duration of the Plan, the University shall make available on-campus beds for full-time Foggy Bottom undergraduate students equivalent to 70% of the full-time Foggy Bottom undergraduate student population up to an enrollment of 8,000, plus one bed per full-time Foggy Bottom undergraduate student over 8,000. For the purposes of these Conditions, the term “on-campus beds” shall include beds available to full-time Foggy Bottom undergraduate students in any property in which the University has an ownership, leasehold, or contractual interest, or beds otherwise occupied by full-time Foggy Bottom undergraduate students in fraternities, sororities, or other programs recognized by or affiliated with the University and located within the campus plan boundary. Each report shall be accompanied by supporting documentation and full explanations of methods,

assumptions, and sources used to compile information in the report. The University's efforts with respect to this Condition shall be monitored by the Advisory Committee.

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

Conditions 12 and 13 carry forward the most substantial requirements from the Campus Plan 2000 – 2009 – providing additional on-campus undergraduate student housing. The nature and scope of the student housing requirement also supports the exclusion of Mount Vernon resident students from the Foggy Bottom Total Student Body Headcount. Otherwise, students housed at Mount Vernon would also be subject to the Foggy Bottom housing requirement, which would create the illogical result of providing two beds for the same student.

OFF-CAMPUS STUDENT HOUSING & STUDENT CONDUCT ISSUES

14. With respect to the housing of undergraduate students in off-campus properties which the University owns or has an interest in, except as otherwise provided by this Condition:
 - a. Effective August 31, 2006, GW shall not house undergraduate students in The Hall on Virginia Avenue.
 - b. Effective August 31, 2007, GW shall not house undergraduate students in The Aston.
 - c. Effective August 31, 2008, GW shall not house undergraduate students in units in Columbia Plaza for which GW maintains certain designation rights as part of GW's undergraduate student housing program, with the exception that juniors and seniors referred to Columbia Plaza as part of GW's student housing program prior to August 31, 2008, may continue to reside in their respective units, subject to the rules and guidelines associated with the GW student housing program, until they graduate from GW or are no longer officially affiliated with the University.
 - d. Effective July 1, 2016, GW shall not house undergraduate students in City Hall.Notwithstanding the foregoing, the University may offer housing in these off-campus facilities to students who are exempted from living on-campus pursuant to Condition 13 (specifically undergraduate students who are married or have children, or have disabilities or religious beliefs inconsistent with residence hall life). The University's efforts with respect to this Condition shall be monitored by the Advisory Committee.

In direct response to issues raised early in the community-based planning process, the University worked closely with OP to address the future use of existing off-campus student housing facilities. The scope of the development plan proposed in the Campus Plan—which will accommodate not only GW's forecasted academic needs on-campus but will also provide for additional on-campus undergraduate student housing—allows the University to make this

substantial long-term commitment with respect to the future use of these off-campus facilities. The Commission notes that this condition has been offered by the University and could not be otherwise imposed on the University by the Zoning Commission.

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

Conditions 15-19 are updated versions of conditions included in the Campus Plan 2000 – 2009 order aimed at addressing issues related to off-campus student conduct. In response to a comment raised by West End Citizens Association, language regarding publication of the hotline information has been included in Condition 17.

HISTORIC PRESERVATION & STREETScape PLANS

20. [Upon the issuance of a final order from the Zoning Commission approving the *Foggy Bottom Campus Plan: 2006 – 2025* as submitted, and the expiration of any appeal period, the University and the Office of Planning will proceed within sixty (60) days to file the appropriate applications with the Historic Preservation Review Board to achieve the designations set forth in the Foggy Bottom Campus Historic Preservation Plan. Specifically, (a) the University shall prepare the applications for the University-owned individual landmarks identified in the Historic Preservation Plan and (b) the University shall work with the Historic Preservation Office to prepare the documentation for the proposed historic district, which shall be filed by the Historic Preservation Office.]

Condition 20 has been updated from the originally-submitted condition regarding campus historic preservation issues. The updated version reflects the significant progress which has been made since the filing of the Campus Plan with respect to the Foggy Bottom Campus Historic Preservation Plan, and also sets forth the University's commitment to the implementation of the Historic Preservation Plan.

21. [Upon the issuance of a final order from the Zoning Commission approving the *Foggy Bottom Campus Plan: 2006 – 2025* as submitted, and the expiration of any appeal period, the University will proceed within sixty (60) days to initiate the process to obtain necessary approvals of the proposed Streetscape Plan from the District Department of Transportation. The costs and resources associated with the implementation of building identifiers (e.g., flags, awnings, and placards), street furniture (e.g., benches, trash receptacles, bike racks and emergency call stations), way-finding elements (e.g., campus maps, directional signage, and location symbols), street banners (e.g., pedestrian, vehicular and thematic banners often mounted on street light posts) and distinctive design elements (e.g., public art, plaques, busts, clocks, paving medallions, mid-block crossing treatments) as set forth in the proposed Streetscape Plan will be the responsibility of the University. Other streetscape elements—including sidewalk paving materials, street lighting fixtures, and certain plantings (particularly street trees)—may be allocated among the University, DDOT, and, as appropriate and available, other outside sources (including organizations or foundations such as Casey Trees for campus street trees). The University will continue to work with DDOT with respect to planning for future District streetscape improvement projects that impact the Foggy Bottom campus, and the specific allocation and contribution of costs associated with such improvement projects will be made on a project by project basis. Streetscape improvements associated with development projects identified in the Campus Plan and first-stage PUD will be funded by GW and will be specifically addressed as part of the second-stage PUD application for each project.]

The updated proposed Condition 21 language reflects the significant progress which has been made since the filing of the Campus Plan with respect to the Foggy Bottom Campus Streetscape Plan, and also sets forth the University's commitment to the implementation of the Streetscape Plan in the event the Campus Plan is approved as filed. Furthermore, the detailed square by square implementation plan set forth in the University's November 15, 2006 supplemental filing (Ex. 230) will be reflected in the updated Campus Plan document to be filed within 60 days of the issuance of this order.

PARKING & TRAFFIC

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

beginning of each Fall semester. The University shall direct students to register their vehicles in the District of Columbia, or obtain a reciprocity sticker. [Furthermore, the University shall update its “On-Campus Parking Restrictions Policy” as follows: Due to the limited number of parking spaces on the streets in and around the Foggy Bottom Campus and the availability of public transportation, all students are discouraged from bringing vehicles to the Foggy Bottom campus. In particular, freshmen and sophomores who are not exempted from the Foggy Bottom campus housing requirement are prohibited from bringing vehicles to the campus, other than in exceptional circumstances. Exceptional circumstances may include, for example, transportation needs related to a disability or health condition of the student or member of his/her family. Requests for a policy exception due to exceptional circumstances must be documented by the student and approved by the University. If such an exception is granted, the vehicle must be parked in a University parking facility. Any violation of this policy shall be grounds for discipline under the University’s Code of Student Conduct.]

The proposed change to condition 22(d) responds to the request made by the West End Citizens Association and the District Department of Transportation to strengthen the existing student parking restriction which currently “strongly discourages” freshmen and sophomores from bringing cars to campus.

23. The University shall maintain, and periodically update, its comprehensive transportation management plan (“TMP”) addressing traffic and parking associated with events on campus that are attended by a significant number of persons not normally associated with the University and the campus. The transportation management plan shall include the following:
- a. Measures to schedule events at times that reduce conflicts with other traffic and other demands for parking.
 - b. Measures to discourage travel by private automobile and encourage travel by public transportation.
 - c. Measures to encourage persons who drive to park in commercial or University Parking garages.
 - [d. Designation of a Transportation Management Coordinator responsible for implementing and monitoring the TMP program.
 - e. Promotion of various technology initiatives (currently including, e.g., the use of video conferencing, podcasts, online library resources, the Bb@GW on-line course management system based on the Blackboard Learning System™, and administrative document management systems) to reduce the need for physical movement to and between the Foggy Bottom campus and other GW campuses.

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

These measures and their efficacy and appropriateness given changes in programs, technology, and parking demand will be regularly reviewed, evaluated and updated over the twenty-year term of the Campus Plan.] The transportation management plan shall be submitted to and reviewed by the Advisory Committee on an annual basis as set forth in Condition 22.

The updates to this condition reflect the results of the Applicant's work with Department of Transportation (DDOT) to identify additional transportation management plan elements which may be appropriate over the term of the Campus Plan.

[24. WMATA has conducted a Second Entrance Demand Analysis for the Foggy Bottom-GWU Metro Station. A draft report issued on October 27, 2006 identified a recommended location for a new entrance at the southeast corner of 22nd and I Streets, NW (the "Proposed Site"). Currently, the Proposed Site is improved with a fully-programmed academic building which is owned and used by GW. The Proposed Site is planned for redevelopment and is included within the development site identified in the *Foggy Bottom Campus Plan: 2006 – 2025* as 77B. As the University has indicated throughout the Campus Plan hearings, the proposed development set forth in the Campus Plan would not preclude the accommodation of a new Metro entrance at the Proposed Site, however, the accommodation of a second Metro entrance as set forth herein is not offered as an amenity of the Campus Plan PUD.]

This is a new condition proposed by the University in response to discussion raised throughout the Campus Plan hearings. In the event development of a second entrance for the Foggy Bottom-GWU Metrorail station at the Proposed Site is undertaken concurrently with GW's redevelopment of Site 77B, GW would provide the approximately 4,000 square feet at grade required for the second Metro entrance (as set forth in the October 27, 2006 draft WMATA Study) to accommodate the second entrance. WMATA would be responsible for all of the costs associated with station construction as well as any costs associated with additional design, engineering and construction elements that would need to be included in GW's development of site 77B to accommodate the Metro entrance. In the event that construction of the entrance does not proceed concurrently with the redevelopment of site 77B, GW and WMATA will negotiate with respect to the design and costs associated with accommodating the new entrance on the Proposed Site.

REPORTING & COMPLIANCE REVIEW

- 2[5.] On November 20 of each year following Zoning Commission approval of this Campus Plan, the University will file a Foggy Bottom Campus Plan Compliance Report with the Zoning Commission, Zoning Administrator, Office of Planning, ANC 2A, and the Advisory Committee. The Foggy Bottom Campus Plan Compliance Report shall contain the following information, reported as of the University Census Date unless otherwise noted¹¹:
- a. Current fall and previous spring semester Foggy Bottom student headcount and Foggy Bottom student full-time equivalent in accordance with Condition 10.
 - b. Current fall and previous spring semester Foggy Bottom faculty & staff headcount and Foggy Bottom faculty & staff full-time equivalent in accordance with Condition 11.
 - c. Data in connection with the on-campus undergraduate student housing requirement set forth in Condition 12, specifically:
 - i. Current fall and previous spring full-time Foggy Bottom undergraduate students. For purposes of these Conditions, “full-time Foggy Bottom undergraduate students” shall be defined as the number of students in the “Foggy Bottom/Mount Vernon Campus Total Student Body”¹ minus graduate students, first professionals (JDs and MDs), undergraduates taking fewer than 12 credit hours at the Foggy Bottom campus, non-degree students, full-time undergraduate study abroad students, undergraduate continuous enrollment students, and full-time undergraduate students that reside at the Mount Vernon Campus.
 - ii. The number of on-campus beds available to full-time Foggy Bottom undergraduate students;
 - iii. The number of on-campus beds occupied by full-time Foggy Bottom undergraduate students;
 - iv. The number of off-campus University-supplied beds within the Foggy Bottom/West End Area, defined as the area bounded by the Potomac River and Rock Creek Park to the west, N Street to the north, 19th Street to the east, and Constitution Avenue to the south;
 - v. The number of off-campus University-supplied beds within the Foggy Bottom/West End Area occupied by full-time Foggy Bottom undergraduate students;
 - vi. The number of off-campus University-supplied beds outside the Foggy Bottom/West End Area;

¹¹ “Census Date” is the date when the University makes its official count of student enrollment. Currently the University Census Date occurs at the end of the sixth week of classes each semester. In the event the University Census Date is modified due to changes in the academic calendar or other necessary administrative policy modifications, upon 60 days notice to the Zoning Commission, Zoning Administrator, Office of Planning, ANC 2A, and the Advisory Committee, the reporting date may be changed accordingly to accommodate the new Census Date.

- vii. The number of off-campus University-supplied beds outside the Foggy Bottom/West End Area occupied by full-time Foggy Bottom undergraduate students.

All data shall be reported for each individual semester and also as an average of the reported fall and spring semesters. Compliance with the on-campus undergraduate student housing requirement set forth in Condition 12 shall be based upon the average of the reported fall and spring semesters until the fall 2010 semester or until the completion and occupancy of the next GW residence hall project proposed in accordance with the Foggy Bottom or Mount Vernon Campus Plans, whichever event first occurs. After the occurrence of the aforementioned event and for the remainder of the term of this Plan, compliance with the on-campus undergraduate student housing requirement set forth in Condition 12 shall be based upon the data reported for each individual semester.

- d. Information evidencing compliance with Condition 15.
- e. Information evidencing compliance with Condition 16.
- f. Information evidencing compliance with Condition 17.
- g. Information evidencing compliance with Condition 18.
- h. Updated address information in accordance with Condition 19.
- i. Current inventory of University-owned parking spaces and other evidence of compliance with Condition 22(b).
- j. Information evidencing compliance with Condition 23.

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

Conditions 25 and 26 represent the University and Office of Planning's extensive effort to create a comprehensive and transparent compliance reporting process for the benefit of the Zoning Administrator, Zoning Commission, ANC 2A, Advisory Committee, and other interested stakeholders (As noted below, Condition 26 has been revised to provide that the same parties will receive the spring interim report as receive the Condition 25 fall report). These reports will be appropriately based on University census date so as to conform data reported for Campus Plan compliance purposes to other data reported by the University. Collectively, these compliance requirements go further than any other District of Columbia Campus Plan requires, and will maintain a transparent and consistent reporting process that will benefit all stakeholders for the term of this Campus Plan.

Condition 25(c)(vii) provides that in the short-term (as defined below), compliance with the undergraduate student housing condition will be based on the average full time Foggy Bottom undergraduate enrollment for the fall and spring semesters. This averaging is needed as a short-

term measure as a result of the proposed change in methodology for determining the number of "full-time Foggy Bottom undergraduates" under subsection (c)(i), including counting certain students who were formerly excluded from the Foggy Bottom campus populations as "Mount Vernon students" under the existing Campus Plan. This interim averaging will be permitted only until fall 2010, or until the completion and occupancy of the next residence hall project on the Foggy Bottom or Mount Vernon campuses, whichever occurs first. It is contemplated that the next residence hall to be completed and occupied will be the project proposed pursuant to the joint DCPS/GW School Without Walls (Square 80) PUD, which was approved by the Zoning Commission on December 11, 2006, and is targeted for occupancy in fall 2009.

- 2[6]. On April 15 of each year following Zoning Commission approval of this Campus Plan, the University will file an Interim Foggy Bottom Campus Plan Compliance Report with the [Zoning Commission], Zoning Administrator, [Office of Planning, ANC 2A], and the Advisory Committee. The Interim Foggy Bottom Campus Plan Compliance Report shall contain the following information, reported as of the University Census date unless otherwise noted:
- a. Current spring and previous fall semester Foggy Bottom student headcount and Foggy Bottom student full-time equivalent in accordance with Condition 10.
 - b. A copy of the audit report of the previous fall semester Foggy Bottom student headcount and Foggy Bottom student full-time equivalent conducted pursuant to condition 10(c) herein.
 - c. Current spring and previous fall semester Foggy Bottom faculty and staff headcount and Foggy Bottom faculty and staff full-time equivalent in accordance with Condition 11.
 - d. Data in connection with the on-campus undergraduate student housing requirement set forth in Condition 12, specifically:
 - i. Current spring and previous fall full-time Foggy Bottom undergraduate students. For purposes of these Conditions, "full-time Foggy Bottom undergraduate students" shall be defined as the number of students in the Foggy Bottom/Mount Vernon campus total student body minus all graduate students, all first professionals (JDs and MDs), all undergraduates taking fewer than 12 credit hours at the Foggy Bottom campus, non-degree students, full-time undergraduate study abroad students, undergraduate continuous enrollment students, and full-time undergraduate students that reside at the Mount Vernon Campus.
 - ii. The number of on-campus beds available to full-time Foggy Bottom undergraduate students;
 - iii. The number of on-campus beds occupied by full-time Foggy Bottom undergraduate students;
 - iv. The number of off-campus University-supplied beds within the Foggy Bottom/West End Area, defined as the area bounded by the Potomac River

- and Rock Creek Park to the west, N Street to the north, 19th Street to the east, and Constitution Avenue to the south;
- v. The number of off-campus University-supplied beds within the Foggy Bottom/West End Area occupied by full-time Foggy Bottom undergraduate students;
 - vi. The number of off-campus University-supplied beds outside the Foggy Bottom/West End Area;
 - vii. The number of off-campus University-supplied beds outside the Foggy Bottom/West End Area occupied by full-time Foggy Bottom undergraduate students.

All data shall be reported for each individual semester and also as an average of the spring and fall reported semesters. Compliance with the on-campus undergraduate student housing requirement set forth in Condition 12 shall be based upon the average of the reported spring and fall semesters until the fall 2010 semester or until the completion and occupancy of the next GW residence hall project proposed in accordance with the Foggy Bottom or Mount Vernon Campus Plans, whichever event first occurs.⁴ After the occurrence of the aforementioned event and for the remainder of the term of this Plan, compliance with the on-campus undergraduate student housing requirement set forth in Condition 12 shall be based upon the data reported for each individual semester.

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

Again, Condition 26 has been revised to provide that the same parties will receive the spring interim report as receive the Condition 25 fall report.

- [27. Several conditions included herein contemplate the involvement of parties other than the Applicant, including the Zoning Administrator, DDOT, Historic Preservation Review Board and the Advisory Committee (as defined in Condition 9 herein). With respect to such conditions, compliance shall be based upon the University's good faith efforts to comply with the condition in question, as the Commission acknowledges that the Applicant cannot be held responsible for the action or inaction of other parties.]
- [28. Within sixty (60) days of the effective date of this Order, the University shall revise the Foggy Bottom Campus Plan: 2006 - 2025 and accompanying Campus Plan PUD document to reflect changes mandated by this Order. Upon completion, revised copies shall be provided to the Zoning Commission. The Zoning Commission shall certify the revised copies as the approved Foggy Bottom Campus Plan: 2006 - 2025 and Campus Plan PUD. Copies of the approved documents shall be maintained in the Office of Zoning and the Office of the Zoning Administrator.]

Appendix B**Properties Included Within the Foggy Bottom Campus Plan Boundaries**

Square	Lot	Building Name	Street Number
39	803	Warwick Memorial	2300 K Street NW
40	36	GW Hospital	900 23rd Street NW
41	40	Ross Hall	2300 Eye Street NW
42	54	New Hall	2310-2350 H Street NW
42	55	Health & Wellness Center	2301 G Street NW
42	14	722 23 rd Street NW	722 23rd Street NW
42	51	725 24th Street NW	725 24th Street NW
42	52	701 24th Street NW	701 24th Street NW
42	820	732 23 rd Street NW	732 23rd Street NW
42	821	730 23 rd Street NW	730 23rd Street NW
42	822	728 23 rd Street NW	728 23rd Street NW
42	840	2300 H Street NW	2300 H Street NW
43	26	Ivory Tower	616 23rd Street NW
54	30	<i>Former GW Hospital Site</i>	901 23rd Street NW
55	28	817 23rd Street, NW (Building K)	817 23rd Street NW
		University Parking Garage (UPG)	817 23rd Street NW
55	854	Fulbright Hall	2223 H Street NW
55	855	Kennedy Onassis Hall	2222 Eye Street NW
		Munson Hall	2212 Eye Street NW
56	30	Funger Hall	2201 G Street NW
		Duques Hall	2201 G Street NW
		Tompkins Hall	725 23rd Street NW
56	31	Madison Hall	736 22nd Street NW
57	55	Townhouse Row	607 23rd Street NW
57	56	Smith Center	600 22nd Street NW
58	1	International House	2201 Virginia Avenue NW

Square	Lot	Building Name	Street Number
58	5	2206 F Street NW	2206 F Street NW
58	6	2208 F Street NW	2208 F Street NW
58	800	526 22 nd Street NW	526 22nd Street NW
58	801	524 22 nd Street NW	524 22nd Street NW
58	802	522 22 nd Street NW	522 22nd Street NW
58	803	520 22 nd Street NW	520 22nd Street NW
58	804	518 22 nd Street NW	518 22nd Street NW
75	23	2134 Pennsylvania Avenue NW	2134 Pennsylvania Avenue NW
75	33	2138 1/2 Pennsylvania Avenue NW	2138 1/2 Pennsylvania Avenue NW
75	34	2138 Pennsylvania Avenue NW	2138 Pennsylvania Avenue NW
75	41	2140 Pennsylvania Avenue NW	2140 Pennsylvania Avenue NW
75	42	2136 Pennsylvania Avenue NW	2136 Pennsylvania Avenue NW
75	46	Burns Clinic/Ambulatory Care Center	2150 Pennsylvania Avenue NW
75	47	2142 Pennsylvania Avenue NW	2142 Pennsylvania Avenue NW
75	858	John Quincy Adams House	2129-2133 I Street NW
75	861	2100 Pennsylvania Avenue NW	2100 Pennsylvania Avenue NW
75	863	2122 Pennsylvania Avenue NW	2122 Pennsylvania Avenue NW
75	864	Rice Hall	2121 I Street NW
75	2001-2125	The President Condominium	2141 I Street NW
77	5	Crawford Hall	2119 H Street NW
77	51	837 22 nd Street NW	837 22nd Street NW
77	59	Academic Center	801 22nd Street NW
77	60	Lafayette Hall	2100 I Street NW
		Marvin Center	800 21st Street NW
77	845	West End	2124 I Street NW
77	846	Schenley Hall	2121 H Street NW
77	864	<i>Vacant</i>	827 - 835 22nd Street NW
79	63	Staughton Hall	707 22nd Street NW

Square	Lot	Building Name	Street Number
79	64	Gelman Library	2140 H Street NW
79	65	Fowler Graduate Career Center	714 21st Street NW
		Hall of Government	710 21st St NW, 2115 G St NW
		Monroe Hall	2115 G Street NW
79	808	2145 G Street NW	2145 G Street NW
79	853	Lisner Auditorium	2100 H Street NW
79	854	Kogan Plaza	2122 H Street NW
79	861	2125 G Street NW	2125 G Street NW
		2127 G Street NW	2127 G Street NW
		2129 G Street NW	2129 G Street NW
		2131 G Street NW	2131 G Street NW
79	862	<i>Vacant</i>	2135 - 2143 G Street NW
79	806	2133 G Street NW	2133 G Street NW
79	5	2119 G Street NW	2119 G Street NW
80	2	2109 F Residence Hall	2109 F Street NW
80	26	2101 F Street NW	2101 F Street NW
80	27	615 22nd Street NW	615 22nd Street NW
80	28	617 22nd Street NW	617 22nd Street NW
80	29	619 22nd Street NW	619 22nd Street NW
80	42	2147 F Street NW	2145 F Street NW
80	43	603 22nd Street NW	603 22nd Street NW
80	44	605 22nd Street NW	605 22nd Street NW
80	45	607 22nd Street NW	607 22nd Street NW
80	46	609 22nd Street NW	609 22nd Street NW
80	47	611 22nd Street NW	611 22nd Street NW
80	50	Lenthall House #1	610 21st Street NW
80	51	Lenthall House #2	606 21st Street NW
80	52	600 21st Street NW	600-602 21st Street NW

Square	Lot	Building Name	Street Number
80	54	Strong Hall	620 21st Street NW
		2106 G Street NW	2106 G Street NW
		2108 G Street NW	2108 G Street NW
		Hortense Amsterdam House	2110 G Street NW
		2112 G Street NW	2112 G Street NW
		2114 G Street NW	2114 G Street NW
		<i>Surface Parking</i>	2116 G Street NW
80	55	<i>Tennis Courts</i>	2125-2135 F Street NW
80	800	<i>Vacant</i>	2119 F Street NW
80	811	613 22nd Street NW	613 22nd Street NW
80	820	2142 G Street NW	2142 G Street NW
80	822	2138 G Street NW	2138 G Street NW
80	823	2136 G Street NW	2136 G Street NW
80	824	2140 G Street NW	2140 G Street NW
80	825	Guthridge Hall	2115 F Street NW
80	828	GSEHD	2134 G Street NW
80	30	621 22nd Street NW	621 22nd Street NW
80	802	2123 F Street NW	2123 F Street NW
80	2001	2121 F Street, NW Unit 1	2121 F Street NW Unit 1
80	2002	2121 F Street, NW Unit 2	2121 F Street NW Unit 2
80	2003	2121 F Street, NW Unit 3	2121 F Street NW Unit 3
80	829	The Grant School (School Without Walls)	2130 G Street NW
81	846	The Dakota	2100 F Street NW
101	58	2000 Pennsylvania Avenue NW	2000-2040 Pennsylvania Avenue NW
101	60	<i>Surface Parking</i>	2003 H Street NW
101	62	Media & Public Affairs	805 21st Street NW
101	879	<i>Vacant</i>	2017 H Street NW
101	839	2040 I Street NW	2040 I Street NW

Square	Lot	Building Name	Street Number
101	871	2021 H Street NW	2021 H Street NW
101	811	Bureau of Catholic Indian Missions	2019 H Street NW
101	61	United Church	812 - 818 20th Street NW
101	874	2013 H Street NW	2013 H Street NW
101N	800	<i>Park</i>	Pennsylvania Avenue NW
102	46	Corcoran Hall	725 21st Street NW
		Samson Hall	2036 H Street/729 21st Street NW
		Bell Hall	2029 G Street NW
		Burns Law Library	716 20th Street NW
		2003 G Street NW	2003 G Street NW
		Lerner Hall	2000 H Street NW
		Lisner Hall	2023 G Street NW
		Stockton Hall	720 20th Street NW
		Stuart Hall	2013 G Street NW
		Woodhull House	2033 G Street NW
103	1	Francis Scott Key Hall	600 20th Street NW
103	13	<i>Surface Parking</i>	2030 G Street NW
103	14	2028 G Street NW	2028 G Street NW
103	27	2002 G Street NW	2002 G Street NW
103	28	2000 G Street NW	2000 G Street NW
103	33	605 21st Street NW	605 21st Street NW
103	34	607 21st Street NW	607 21st Street NW
103	35	609 21st Street NW	609 21st Street NW
103	40	2035 F Street NW	2033-2037 F Street NW
103	41	Building JJ	2031 F Street NW
103	42	Potomac House	2021 F Street NW
103	42	Support Building (formerly lot 817)	2025 F Street NW
103	809	2034 G Street NW	2034 G Street NW

Square	Lot	Building Name	Street Number
103	812	<i>Surface Parking</i>	2018 G Street NW
103	813	<i>Surface Parking</i>	2024-2026 G Street NW
103	814	2024 - 2026 G Street NW (rear)	2024 - 2026 G Street NW (rear)
103	816	Quigley's	2036 G Street/619 21st Street NW
103	819	<i>Vacant</i>	2006 G Street NW
103	820	2008 G Street NW	2008 G Street NW
103	18	2020 G Street NW	2020 G Street NW
103	26	2004 G Street NW	2004 G Street NW
103	32	601 21st Street NW	601 21st Street NW
119	26	1900 Pennsylvania Avenue NW	1900 Pennsylvania Avenue NW
121	819	Alumni House	1925 F Street NW
121	820	Int'l Bank for Reconstruction & Development	600 19th Street NW
121	17	United Church	1920 G Street NW
122	29	1957 E Street/1959 E Street NW	1957/1959 E Street NW
122	824	Mitchell Hall	514 19 th Street NW
122	825	Thurston Hall	1900 F Street NW