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| 240663                                                                                                                      | Submitted to ODAI | Notices, Opinions   | Zoning Commission Notice of Final Rulemaking & Order No. 09-10 (Text Amendment - Water Tower on the Saint Elizabeths East Campus)                                                                                   | 4/23/2010 Vol 57/17 | 4/20/2010 08:44:20 |
| 24077                                                                                                                       | Submitted to ODAI | Final Rulemaking    | Zoning Commission Notice of Final Rulemaking & Order No. 09-10 (Text Amendment - Water Tower on the Saint Elizabeths East Campus)                                                                                   | 4/23/2010 Vol 57/17 | 4/20/2010 08:43:25 |
| 240674                                                                                                                      | Submitted to ODAI | Notices, Opinions   | Zoning Commission Order No. 07-07A (Broadcast Residential Partners, LLC and the District of Columbia)                                                                                                               | 4/23/2010 Vol 57/17 | 4/20/2010 08:34:18 |
| 24057                                                                                                                       | Submitted to ODAI | Notices, Opinions   | Zoning Commission Notice of Final Rulemaking & Order No. 10-01 (Text Amendments to Allow Increased FAR and Height as a Matter of Right for Certain Types of Projects on Properties Located in a TDR Receiving Zone) | 4/23/2010 Vol 57/17 | 4/20/2010 08:33:12 |
| 240480                                                                                                                      | Submitted to ODAI | Final Rulemaking    | Zoning Commission Notice of Final Rulemaking & Order No. 10-01 (Text Amendment to Allow Increased FAR and Height as a Matter of Right for Certain Types of Projects on Properties Located in a TDR Receiving Zone)  | 4/23/2010 Vol 57/17 | 4/20/2010 08:31:36 |
| 240383                                                                                                                      | Submitted to ODAI | Notices, Opinions   | Zoning Commission Order No. 07-23A (Georgetown University - Extension of the Validity of Z.C. Order No. 07-23)                                                                                                      | 4/23/2010 Vol 57/17 | 4/20/2010 08:28:46 |
| 240235                                                                                                                      | Submitted to ODAI | Proposed Rulemaking | Zoning Commission Notice of Proposed Rulemaking: Z.C. Case No. 09-18 (Text Amendment to Expressly Authorize More than One Regular Monthly Zoning Commission Meeting)                                                | 4/23/2010 Vol 57/17 | 4/20/2010 08:26:06 |
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**ZONING COMMISSION**  
District of Columbia

CASE NO. 07-23A

EXHIBIT NO. 6

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 07-23A**  
**Z.C. Case No. 07-23A**  
**(Georgetown University – Extension of the Validity of Z.C. Order No. 07-23)**  
**November 23, 2009**

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (the “Commission”) was held on November 23, 2009. At the meeting, the Commission approved a request from the Presidents and Directors of Georgetown College (“Georgetown” or the “Applicant”), pursuant to 11 DCMR § 3130.6, for an extension to the validity of Z.C. Order No. 07-23 (the “Subject Order”), by granting a two-year extension of the time period set forth in § 3130.1 to file plans for: (1) the construction of a new Science Center, (2) construction of a new Athletic Training Facility, and (3) modifications to the approved Multi-Sport Facility, on the main campus of Georgetown University, for the purposes of obtaining a building permit.

**FINDINGS OF FACT**

1. By Z.C. Order No. 07-23, the Commission approved special exception approval of further processing applications for the construction of a new Science Center, construction of a new Athletic Training Facility, and modifications to the approved Multi-Sport Facility, as well as an amendment to an approved campus plan to accommodate the Athletic Training Facility. In addition, the Commission approved a special exception pursuant to §§ 3104 and 411 to locate the rooftop structure on the Science Center within the required setback from the exterior walls and a variance pursuant to § 3103 for the rooftop structure on the Science Center to exceed the height limit for roof structures.
2. Pursuant to 11 DCMR § 3035.5, the Commission uses the Board of Zoning Adjustment (“BZA”) rules of practice and procedure in processing, reviewing, and approving college and university uses.
3. Z.C. Order No. 07-23 became effective upon its publication in the *D.C. Register* on November 23, 2007. Pursuant to 11 DCMR § 3130.1, the Commission’s approval is valid for a period of two years. If no application for a building permit or motion for time extension is filed within that timeframe, the approval expires.
4. Section 3130.6 of the Zoning Regulations permits one extension of the time period in § 3130.1 “for good cause shown upon the filing of a written request by the applicant before the expiration of the approval.”
5. By letter dated October 15, 2009, the Applicant filed a request to extend the validity of Z.C. Order No. 07-23 for a period of two years, such that an application for a building permit must be filed no later than November 23, 2011. Pursuant to § 3130.6, the Applicant’s extension request addressed the requirements for extending the validity of the Subject Order. (Exhibit 1.) Specifically:

- a. Section 3130.6(a): The Applicant certified that the extension request was served on all parties to the original case on October 15, 2009, which provided those parties at least 30 days to respond;
  - b. Section 3130.6(b): The Applicant stated that no changes were proposed to the plans as previously approved in Z.C. Order No. 07-23, and there had been no substantial change in any of the material facts relied upon by the Commission in the original case; and
  - c. Section 3130.6(c): The Applicant provided substantial evidence that economic and market conditions beyond the Applicant's reasonable control impacted both fundraising and other financing mechanisms and resulted in Georgetown's inability to obtain sufficient project financing for the improvements.
6. The D.C. Office of Planning ("OP") submitted a report dated November 6, 2009, recommending approval of the two-year extension. (Exhibit 5.)
  7. Advisory Neighborhood Commission 2E ("ANC 2E") submitted a letter dated November 5, 2009, stating no objection to the extension of the prior approval. (Exhibit 4.)

### **CONCLUSIONS OF LAW**

Pursuant to 11 DCMR § 3130.6 of the Zoning Regulations, the Commission may grant one extension of the time periods outlined in 11 DCMR § 3130.1 for good cause shown upon a request made before the expiration of the original approval. The Commission concludes that the Applicant has satisfied the provisions of § 3130.6. First, pursuant to § 3130.6(a), all parties to Z.C. Case No. 07-23 were served with a copy of the application on October 15, 2009, which permitted at least 30 days to respond prior to the Commission's public meeting. Second, pursuant to § 3130.6(b), there has been no substantial change in any of the material facts relied upon by the Commission in its original approval in Z.C. Order No. 07-23. Third, as required by § 3130.6(c), the Applicant has met the burden of proof of showing the existence of good cause based on an inability to obtain sufficient project financing due to economic and market conditions beyond the Applicant's reasonable control.

Based upon the record before the Commission, the Commission concludes that the Applicant has met the burden of proof pursuant to 11 DCMR § 3130.6 and that the requested extension should be granted.

The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code §6-623.04) to give great weight to OP recommendations. The Commission notes and gives great weight to the recommendation of OP that the request satisfies the requirements of § 3130.6.

The Commission is required pursuant to § 3 of the Comprehensive Advisory Neighborhood Commissions Reform Amendment Act of 2000, effective June 27, 2000 (D.C. Law 13-135; D.C. Official Code § 1-309.10(d)), to give great weight to the issues and concerns expressed in the affected ANC's written recommendation. The Commission has carefully considered ANC 2E's recommendation for approval and concurs in its recommendation.

### **DECISION**

In consideration of the Findings of Fact and the Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the application for a two-year extension of the time period set forth in 11 DCMR § 3130.1 for the filing of the plans approved in Z.C. Order No. 07-23 for the purposes of obtaining a building permit; that is, until November 23, 2011.

**VOTE: 5-0-0** (Anthony J. Hood, William W. Keating, III, Konrad W. Schlater, Michael G. Turnbull, and Peter G. May to approve).

### **BY ORDER OF THE D.C. ZONING COMMISSION**

A majority of the Commission members approved the issuance of this Order.

**FINAL DATE OF ORDER: April 23, 2010**