16. The Board finds that during the period 1989-2000, the University added 303 beds and 553 (5,840-5,287) additional traditional full-time undergraduate students with the result that the number of undergraduates living off campus increased by at least 250. The Board finds that the Applicant did not meet its 1990 Campus Plan requirement to provide one new on campus bed for each additional student enrolled under the cap.

STUDENT CONDUCT

18. Testimony and written submissions from the community association parties and from individual members of the community demonstrate that student misconduct off-campus has grown progressively worse over the life of the 1990 Campus Plan, and reached intolerable levels in 1999 and 2000. (Community Letters, Exhibit Nos. 61-66, 71-73, 75, 77-78, 81, 95-100, 102, 106, 108-113, 120-122, 124-130, 132-133, 137-138, 140-141, 143, 152, 163, 187).

19. The Applicant submitted a sample of data tracking citizen complaints from August 24, 2000 to September 24, 2000. According to that data, 57 calls were placed to the hotline regarding 48 separate events. Georgetown dispatched hotline staff to the premises 46 times resulting in the sanction of 38 students and 9 houses. There was no information regarding the types of sanctions imposed or whether any students were sanctioned for their off campus behavior. (Applicant's Response to Request for Additional Information; Exhibit No. 191, Appendix P, P. 3).

20. The Applicant submitted a sample data tracking Metropolitan Police Department action from August 24, 2000 to September 24, 2000. According to that data, there was one noise violation by an off campus student, one instance of disorderly conduct by an off campus student, one instance of urinating in public and 23 alcohol violations involving both on campus and off campus students. Of the 26 total violations, 11 were for off campus students, 7 of whom were sanctioned by the University. There was no information regarding the types of sanctions imposed or whether on campus students were sanctioned for their off campus behavior. (Applicant's Response to Request for Additional Information; Exhibit No. 191, Appendix P, P. 4).

21. The Board finds that as the number of students living off-campus increased, objectionable conditions in the community caused by student misconduct also increased.

22. The Board finds that a decrease in the number of students living off campus is required to address the objectionable conditions existing at the present time. The Board finds that any increase in the undergraduate enrollment cap has the potential to increase the objectionable conditions in the surrounding neighborhood that the Board finds to exist at the present time.

OFF-CAMPUS STUDENT AFFAIRS PROGRAM

Board of Zoning Adjustment
District of Columbia
CASE NO.16566
EXHIBIT NO.288A2

23. The 1990 Campus Plan incorporated as a condition of approval a commitment by the University to create an Off-Campus Student Affairs Program that addresses the University's responsibility to both its students living in the neighborhoods and to the residents of Georgetown, Burleith and Foxhall, ensures that students are responsible in their conduct within the neighborhood, and ensures that students who cause serious problems in the neighborhood are dealt with in an appropriate manner. (1990 Campus Plan, Condition 5, Appendix H, Exhibit 145).

24. The Board finds that the Off-Campus Student Affairs Program under the 1990 Campus Plan has not been successful in preventing or mitigating the objectionable conditions in the community.

25. ~~11. The~~**As part of the Proposed Campus Plan, the** Applicant proposed a new Off-Campus Student Affairs Program, outlining proactive measures intended to better ensure that students living off-campus are responsible community citizens. The Off-Campus Student Affairs Program and Implementation Plan includes:

a. An acknowledgement by the University that it will address adverse impacts from students living off campus, including noise, drinking, partying, parking, trash, and disrespectful behavior;

b. A clear statement that the University will not tolerate behavior that adversely impacts the surrounding community and reflects poorly on the institution;

c. Clear-cut procedures for educating students living off-campus as to their community responsibilities, enforcing the University's new Code of Conduct, and implementing stiffer sanctions and penalties for violations of the Code;

d. The creation of a new neighborhood council, called the Alliance for Local Living (ALL), that will meet with the University to bring issues to the attention of the University and to identify problems and their solutions, inviting representatives of District government agencies as needed to work toward community-wide solutions;

e. Increased coordination with the Metropolitan Police Department to assure an institutionalized and coordinated approach to issues concerning student conduct off campus;

f. Increased and enhanced on-campus events, programs, and activities as well as comprehensive alcohol education programs; and

g. An implementation plan that outlines immediate, short-term, and long-term actions that can be monitored, tracked, and evaluated, so that statistics can be shared with ALL and reported to the Office of Planning and the Zoning Administrator annually. (Exhibit No. 169).

26. The Off-Campus Student Affairs Program is part of the Office of Student Affairs. The Office of Student Affairs also includes the Department of Public Safety. (Applicant's Statement at Appendix G, Exhibit No. 46, 46A).

27. ~~12.~~The Board finds that the new Off-Campus Student Affairs Program is reasonable as a means to ~~lessen~~**attempt to reduce** the incidence of serious student misconduct ~~off-campus~~ in the surrounding neighborhoods.

TRAFFIC AND PARKING

28. ~~13.~~The Applicant currently employs 6,727 faculty and staff on campus, but projects that the number will ~~rise~~ **increase** to 7,500 over the life of the ~~campus plan~~**Proposed Campus Plan**. The Applicant's traffic and parking calculations were based on the projected number. **(Applicant's Statement at Appendix E, Exhibit No. 46, 46A).**

29. ~~14.~~The Applicant's proposed Transportation Management Program (TMP) encourages **the** use of public transportation and the Georgetown University Transportation System (GUTS). Components of the TMP include providing additional parking spaces at off-campus locations, operating more GUTS shuttle buses, and other measures to reduce use of single-occupant vehicles for trips to and from the campus, especially during peak hours. **(Applicant's Statement at Appendices L, M, Exhibit No. 46, 46A).**

30. ~~15.~~The University currently has 1,535 marked parking spaces located on the main academic campus, and **2,494** marked and stacked spaces located on the north campus, for a total campus inventory of 4,029 parking spaces. The existing campus parking supply is consistent with the cap of 4,080 spaces approved in the ~~University's~~ 1990 ~~campus plan~~**Campus Plan** as a means to discourage people from driving to the campus ~~(see BZA Order No. 15302)~~. Two new parking facilities are proposed for the Medical Center campus to replace surface parking and an existing valet parking program that includes 400 parking spaces and handles approximately 560 cars per day. A large surface lot at the south end of campus will be replaced with a below-grade parking structure as part of the Southwest Quadrangle, with access directly from Canal Road. **(Applicant's Statement at Appendices L, M, Exhibit No. 46, 46A).**

31. ~~16.~~The Board finds that the Applicant's proposed Transportation Management Program is reasonable, particularly with respect to its efforts to increase use of public transit and GUTS buses. ~~However, the Board also finds that the supply of off-street parking on campus may be insufficient to ensure that the surrounding neighborhoods are not adversely affected by university-related parking. The Board finds that the University should provide at least 4,080 off-street parking spaces within the campus boundaries.~~

32. The Applicant testified that students who live in campus housing are not permitted to have vehicles on campus. Additionally, those students who live in the District and in those areas in Northern Virginia which have good Metrobus and GUTS service may not use campus parking facilities. (Applicant's Statement at Appendix L, Exhibit No. 46, 46A).

33. Street-parking decals are available from the D.C. Department of Motor Vehicles to Georgetown students who live off-campus in the neighborhood and register their cars in the District. (Applicant's Statement at Appendix L, Exhibit No. 46, 46A).

34. The Applicant testified that it currently has no method of determining whether a student has a vehicle or whether such vehicle is registered in the District, but would be concerned if its students violated District parking regulations. (BZA June 13, 2000 Hearing, Testimony of Linda Greenan).

35. Community members testified that illegally parked student vehicles in residential parking zones create an adverse impact by contributing to the shortage of on street parking in the community. (See Community Letters, ¶69, infra.)

36. ~~17.~~ The University has reached an agreement with MedStar to operate the clinical care enterprises of the Georgetown University Medical Center. Pursuant to the agreement, the facility will continue to be used as a university medical center with a university hospital, university medical school, and accessory buildings and uses. The University continues to own the land, and will exercise exclusive control over aspects of the medical center relating to its academic program as a learning facility for medical students and medical residents in furtherance of the academic mission of the University. The Applicant stated that the number of staff, parking spaces, and visitors will stay within the ~~campus plan~~**Proposed Campus Plan** projections. **(July 11, 2000 Letter from University to Board, Exhibit 67).**

OFFICE OF PLANNING

37. The Applicant participated in a mediation process sponsored by the Office of Planning in May 2000. During the mediation process, the Applicant met with representatives of the community groups opposed to the proposed Campus Plan. The University subsequently amended its proposed plan by (1) reducing the proposed increase in the enrollment cap to 389 traditional full-time undergraduate students, 500 students above the reported enrollment at that time; (2) proposing to delay any increase in enrollment above its current cap until after the Southwest Quadrangle project is occupied or until fall 2003; (3) strengthening the University's off-campus student affairs program; and (4) providing the Zoning Commission with progress reports in every future application for further processing. (Exhibit No. 46).

38. ~~18.~~ The Office of Planning submitted a report on June 12, 2000 ("**OP** June 12 Report") recommending approval of the ~~campus plan application~~**Proposed Campus Plan**, allowing the University the full requested increase in undergraduate enrollment (389) subject to conditions relating to housing and enrollment. OP recommended a formula approach to future increases in undergraduate enrollment designed to provide certainty about enrollment increases while requiring the University to take additional actions to address impacts if the number of off-campus undergraduate students living in the community near the campus (i.e., within Zip code 20007) exceeds a specified threshold percentage. Measures undertaken by the University to mitigate adverse impacts could include: (1) providing more on-campus housing; (2) providing housing elsewhere, outside Zip code 20007 and other areas affected by other universities; and (3) undertaking an increased off-campus student program. **(OP June 12 Report, Exhibit No. 52).**

39. OP expressed concern that the future increase of undergraduates without any additional on campus housing could lead to continuing negative impacts on nearby neighborhoods. Although OP believes that the situation will improve upon completion of the Southwest Quadrangle, it believes that it would be "somewhat counter-productive to see an improvement for several years and then see new negative impacts, essentially slipping backwards, as the University added 389 new undergraduates, above the present cap." (OP June 12 Report at 20, Exhibit No. 52).

40. ~~19.~~ OP identified **additional student enrollment and** the relationship ~~between~~**of** enrollment ~~and the percentage of students housed~~**to student housing** on campus as ~~a~~**the** "major issue~~." While 77 percent of students were living on campus as of the Spring 2000 semester,~~" **with the Proposed Campus Plan. (OP June 12 Report at 9, Exhibit No. 52). OP recognized the objectionable impacts of students that living in neighborhoods adjacent to and near the University, often in "group houses," creating objectionable impacts on those neighborhoods because of noise, parked cars, trash, conversion of back yards to parking, etc. (Id. at 9). OP indicated** students living in rented houses off-campus have been a significant community problem, especially in Burleith. ~~June 12 Report at 4.~~ **(Id. at 4).**

41. OP identified residents' concerns that use of houses for rental student housing prevents those houses from being owner occupied and contributing to the stability and diversity of the neighborhood. OP stated that "[f]rom a planning perspective, it is desirable to have a stable neighborhood and housing stock and avoid a concentration of group houses that affect the character of the neighborhood." (OP June 12 Report at 9, Exhibit No. 52).

42. OP cited Sec. 1342.1(b) of the Ward 2 plan that includes a reference to "enforce Georgetown University's commitment to the surrounding neighborhood to move student residences and university offices out of the local community and onto the campus." (OP June 12 Report at 7, Exhibit No. 52).

43. OP expressed concern that graduate and professional students will move into units vacated by undergraduates upon the completion of the Southwest Quadrangle thereby resulting in little improvement in West Georgetown and Burleith. OP recommends that the University carefully track the number and residency pattern of graduate students on a regular basis so that any changes in impact can be assessed. (OP June 12 Report at 23, Exhibit No. 52).

44. ~~20.~~ In its ~~supplemental report~~**OP Supplemental Report**, dated July ~~17, 2000,~~**14, 2000 ("OP Supplemental Report"),** OP stated its belief that the opening of the Southwest Quadrangle in ~~Fall~~**fall** 2003 would greatly lessen the impacts of undergraduate students on adjacent neighborhoods, especially Burleith and West Georgetown, because many undergraduates will be removed from the neighborhoods. **(OP Supplemental Report at 5, Exhibit No. 116).**

45. ~~21.~~ OP testified that "some upper limit should be set for Georgetown University (traditional) undergraduate students living off campus in Zip Code 20007." Therefore OP proposed that off-campus undergraduates living in Zip Code 20007 should "not be allowed to exceed 700 after the 2003-2004 academic year," because a population of undergraduate students approaching 700 "would be an indication that a problem situation was developing." According to OP, the 700-student limit was a compromise that "allows room for considerable University enrollment growth after 2003" but would also "serve as a protection for the surrounding neighborhoods Under OP's recommendation, if the number of undergraduate students living in Zip Code 20007 after ~~Fall~~**fall** 2003 reached 700, the University should be required to provide additional housing on-campus, elsewhere in the District of Columbia (but not in areas with other university impacts), or nearby suburban locations; provide incentives for students to live outside Zip Code 20007; or forego any increase in undergraduate enrollment until the number of undergraduates living in Zip Code 20007 drops below 700. **(OP** Supplemental ~~report~~**Report** at ~~6.~~ **6, Exhibit No. 116).**

46. ~~22.~~ OP also expressed concern about traffic impacts (traffic flow and parking), especially with respect to traffic on Reservoir Road and the north-south streets that intersect it between 35th and 39th Streets, N.W. **(OP Supplemental Report at 8, Exhibit No. 116).**

DEPARTMENT OF PUBLIC WORKS REPORT

47. ~~23.~~ The Department of Public Works (DPW) submitted a report dated June 8, 2000 addressing the transportation elements of the ~~proposed campus plan~~**Proposed Campus Plan**. DPW stated that "one of the best and most effective ways to minimize traffic to and from the campus is to provide on-campus housing for students presently living off-campus." ~~DPW Report at 2.~~ Development of the Southwest Quadrangle project "would have an extremely beneficial improvement on local traffic." ~~Id.~~ Another effective way to decrease traffic volume to and from the campus, according to DPW, is to encourage use of the available public transportation and the Georgetown University Transportation Shuttle (GUTS) by the University's faculty and staff, including medical staff. **(DPW Report at 2, Exhibit No. 48).**

48. ~~24.~~ DPW reported that University-related traffic along 38th and 39th Streets adjacent to the campus is not significant **enough** to cause **an** adverse traffic impact in the residential area. ~~Id. at 3.~~ However, according to DPW, "Reservoir Road suffers from traffic congestion, especially during the morning and evening peak hours, which severely affects local residents' ability to access Reservoir Road." ~~Id.~~ DPW has undertaken an investigation, in cooperation with the University, MedStar, and local residents, to consider alternative traffic management strategies designed to reduce overall congestion on Reservoir Road. DPW also expects that some of the traffic currently approaching the campus via Reservoir Road may shift to the Canal Road entrance once the proposed improvements to the south entrance are completed. ~~Id.~~ **(DPW Report** at 3-~~4.~~ **4, Exhibit No. 48).**

49. ~~25.~~ DPW commented on the traffic concerns expressed by the Hillandale Homeowners Association, concluding that differences in traffic analyses conducted by the Applicant and by Hillandale result from traffic monitoring at different times. DPW stated that the differences did not affect the overall findings of the Applicant's traffic report, which generally used the higher (worst case) scenario in its findings. ~~Id~~**(DPW Report** at ~~4.~~ **4, Exhibit No. 48).**

50. ~~26.~~ In calculating future traffic generation, DPW concluded that "the undergraduate student population would have negligible impact on traffic and parking due to its small increase and limited automobile usage." ~~Id. at 4.~~ The largest single increase in anticipated traffic generation would come from graduate students, who could be expected to create approximately 308 new trips per day, parking primarily on the south campus parking lot. While much of the graduate student traffic would likely occur during non-peak hours, DPW encouraged the University to increase mass-transit usage by graduate students. ~~Id.~~ **(DPW Report at 4, Exhibit No. 48).**

51. ~~27.~~ DPW noted that the Applicant's traffic report showed very limited university-related traffic on local streets, but remained concerned about local streets with respect to the difficulty residents have in accessing Reservoir Road during peak-hours congestion on Reservoir Road. ~~Id.~~ **(DPW Report at 4, Exhibit No. 48).**

52. ~~28.~~ DPW also concluded that the University's parking supply - 4,029 campus parking spaces, including 1,535 marked spaces on the main academic campus and 2,494 marked and stacked spaces on the north campus - is adequate for peak demand requirements. ~~Id.~~ **(DPW Report** at ~~5.~~ **5, Exhibit No. 48).**

53. ~~29.~~ DPW recommends the realignment of Entrance #1 and 38th Street, N.W. to improve traffic and pedestrian safety, with Entrance #1 designed with channelization and signage to require all vehicles using the entrance to turn either left or right, to eliminate cut-through traffic on 38th Street. ~~Id~~ **(DPW Report** at ~~6.~~ **6, Exhibit No. 48).**

54. ~~30.~~ DPW concluded that the ~~proposed campus plan~~ **Proposed Campus Plan** would result in an increase in traffic generation at both the northern and southern entrances. However, much of the increase would likely be spread throughout the day, and would not significantly affect peak-hour traffic congestion. DPW will work with the University and local residents in assessing overall congestion on Reservoir Road, and will seek to implement traffic management and parking modifications to reduce congestion, especially during peak hours. **(DPW Report at 7, Exhibit No. 48).**

COMMUNITY RESPONSE

55. The Board received numerous letters in support of the Application. The letters generally cited the contributions made by the University and its students and faculty, for example, in tutoring elementary school children, providing various types of assistance to public and private schools, teaching adult literacy and other classes, providing medical outreach services, and assisting economic and human development efforts of community organizations. Other letters in support, written by residents of Georgetown, described advantages of living near the University, including the vibrant community and proximity to students who volunteer for community programs and whose foot traffic through the neighborhood creates a sense of security for pedestrians. (Community Letters, Exhibit Nos. 82-94, 104-105, 107, 123, 134-136, 139, 161, 165).

56. ~~31.~~ At a special meeting held June 6, 2000, with all commissioners present, ANC 2E passed a resolution in support of the ~~University's proposed campus plan~~**Proposed Campus Plan** by a vote of five to three. The resolution notes that the University affirmed that, over the life of the 10-year plan, it would (1) maintain an on-campus undergraduate student population of at least 85 percent after completion of the Southwest Quadrangle in September 2003; (2) phase in an increase **in** the authorized enrollment cap from 5,627 to 6,016 upon completion of the Quadrangle; (3) reduce off-campus housing demands in nearby neighborhoods to approximately 400 undergraduate students, a decrease of 60 percent from current levels; and (4) strengthen its off-campus student affairs program. ANC 2E conditioned its approval of the ~~campus plan~~**Proposed Campus Plan** "by urging that measures be taken to strengthen the off-campus student affairs program," such as by suspending students who are cited for repeated disturbances in residential neighborhoods or requiring them to live on campus. **(ANC Resolution, Exhibit No. 49).**

57. ~~32.~~ In a "position statement" dated October 31, 2000, ANC 2E described the standards of conduct necessary to avoid adverse impacts associated with students living off-campus, addressing issues of trash, loud parties, and late-night street noise. The ANC emphasized that the University bears primary responsibility for educating its students and ensuring that they adhere to community standards and the laws of the District of Columbia. ANC 2E also expressed support for the Applicant's efforts to address issues associated with students living off-campus and to educate students about the appropriate standards of community living. The position statement was adopted by unanimous vote at its regularly scheduled meeting of October 30, 2000, which was duly noticed and at which all members were present. **(ANC Position Statement,** Exhibit No. 220~~.~~**).**

58. ~~33.~~ The community association parties **– the Foxhall Community Citizens Association, the Hillendale Citizens Association, the Burleith Citizens Association, Cloisters in Georgetown Homeowners Association, the Georgetown Residents Alliance, and the Citizens Association of Georgetown –** testified collectively about the importance of strong, livable residential neighborhoods to both the city and the University. They expressed support for most of the goals of the ~~proposed campus plan~~**Proposed Campus Plan**, including planned infrastructure improvements and new academic buildings. However, the community association parties stated that present University operations are objectionable to neighboring property, and the proposed plan failed to address existing **objectionable** impacts. Citing a "large number of unknowns" in the planning process, the community association parties suggested approval of a five-year ~~campus plan~~**Campus Plan** instead of committing to the 10-year proposed plan. **(Community Association Parties Statement,** Exhibit No. 151~~.~~**).**

59. ~~34.~~ The community association parties argued in favor of maintaining the cap on enrollment adopted by the Board in the 1990 ~~campus plan~~**Campus Plan**, on grounds that large numbers of students ~~living~~**, both students living on-campus, and those living off-campus, are causing objectionable conditions** in the community ~~cause a negative impact~~ because of behavior, housing, and other issues~~, and~~**. Further, they argued** that the University's efforts to mitigate the impact have not solved the problem. The community association parties concluded that increasing the cap would increase **existing** objectionable conditions in the community because of **increasing** numbers of students. ~~Id.~~ **(Community Association Parties Statement, Exhibit No. 151).**

60. The community association parties expressed concern about the operation of the Medical Center by MedStar. Specifically, they were concerned about an increase in the number of helicopter flights to the Medical Center, adding to the noise and increasing the possibility of a crash in the neighborhoods. (Community Association Parties Statement, Exhibit No. 151).

61. The Citizens Association of Georgetown ("CAG") argued against any increase in enrollment and expressed concern that the University had abandoned its goal of housing 100 percent of its undergraduate students on-campus. CAG also expressed concern regarding University owned townhouses and condominium units being used as campus housing outside the campus boundary. According to CAG, the University has at least 179 undergraduate beds in group houses located off-campus that have a very significant adverse impact on the community, including disruption of community development due to the transitory nature of the inhabitants. CAG also suggested approval of a five-year Campus Plan instead of committing to the 10-year proposed plan. (Citizens Association of Georgetown Statement, Exhibit No. 154).

62. ~~35.~~ The Burleith Citizens Association (**"**BCA**"**) argued in opposition to any increase in undergraduate enrollment, asserting that the 1990 **Campus Plan** cap should be maintained to help mitigate the adverse impact of students. According to the BCA, there is a serious community impact from excessive numbers of students living off-campus, citing especially the prevalence of rental properties occupied by undergraduates in Burleith and associated serious behavior problems, overcrowding and inappropriate use of ~~singlefamily~~**single-family** housing, trash problems, and the use of yards for parking. BCA witnesses testified about extensive efforts by Burleith residents to address student-related problems with the University, the Metropolitan Police Department, DPW, and the Department of Consumer and Regulatory Affairs, among others. **(Burleith Citizens Association Statement,** Exhibit No. ~~160.~~ **160).**

63. ~~36.~~ According to the BCA, the University's Office of Student Affairs has not been successful in eliminating the disruptive effect of student misconduct in the surrounding neighborhood. The BCA emphasized that off-campus living should be considered a privilege and not guaranteed to all students irrespective of their behavior. The BCA also testified that the hotline should be extended to Thursday nights and improved with follow-up calls to inform neighbors what actions were taken, and that the University should provide adequate support for the Office of Student Affairs. **(Burleith Citizens Association Statement,** Exhibit No. ~~160.~~ **160).**

64. ~~37.~~ The BCA also opposed the proposed realignment of 38th Street with Entrance No. 1 because it would cause drivers to use side streets in an effort to avoid traffic signals and stop signs. ~~Id.~~ **(Burleith Citizens Association Statement, Exhibit No. 160).**

65. The submission of the Foxhall Community Citizens Association urged the Board to maintain the 1990 Campus Plan enrollment cap, restrict graduate student expansion to 400 students, require the University to continue the quarterly meetings under the 1990 Campus Plan, set conditions requiring that sporting and theatrical events not be held during rush hours, prohibiting the use of the expanded stadium and theatre facilities to off-campus for-profit organizations, make no changes in the internal University traffic barriers separating the north and south campuses (Foxhall Community Citizens Association Statement, Exhibit No. 150)

66. ~~38.~~ The Georgetown Residents Alliance argued against any increases in student enrollment, citing the "severe adverse impacts on the surrounding residential neighborhoods" that an increase would cause. **(Georgetown Residents Alliance Statement,** Exhibit No. ~~158.~~**158).**

67. ~~39.~~ The Hillandale Homeowners Association expressed concerns about the lack of access to Hillandale, 267 single-family residences located directly across Reservoir Road from the Georgetown University medical complex, when Reservoir Road is blocked for community events or due to heavy traffic. In light of its "overarching concern" about the impact of increased vehicular traffic on Reservoir Road, the Hillandale Homeowners Association requested that the Board require the Applicant to undertake a traffic study and to implement effective traffic amelioration measures as a condition of approval of the ~~proposed campus plan. Exhibit No. 168.~~ **Proposed Campus Plan. (Hillandale Homeowners Association Statement, Exhibit No. 168).**

~~40. The Board received numerous letters in support of the Application. The letters generally cited the contributions made by the University and its students and faculty, for example, in tutoring elementary school children, providing various types of assistance to public and private schools, teaching adult literacy and other classes, providing medical outreach services, and assisting economic and human development efforts of community organizations. Other letters in support, written by residents of Georgetown, described advantages of living near the University, including the vibrant community and proximity to students who volunteer for community programs and whose foot traffic through the neighborhood creates a sense of security for pedestrians.~~

68. ~~41.~~ The Federation of Citizens Associations submitted suggestions for Board action on the ~~proposed campus plan~~**Proposed Campus Plan**, including: (1) deferment of any increase in undergraduate enrollment until on-campus housing has been built to accommodate the new students; (2) consideration of graduate students as well as undergraduates when assessing the impact of students on surrounding communities; and (3) denial of any request to realign the north campus entrance with 38th Street into Burleith. **(Federation of Citizens Associations Statement, Exhibit No. 162).**

69. ~~42.~~ The Board ~~also~~ received numerous letters **and proffered evidence at the July 18, 2000 hearing** in opposition to the ~~proposed campus plan~~**Proposed Campus Plan**. Many residents of surrounding neighborhoods, especially Burleith, described objectionable living conditions caused by students ~~living~~**living off-campus, as well as on-campus students when** off-campus, including frequent loud noise; excessive use of alcohol; disorderly behavior; loud late-night parties; parking violations; accumulations of trash and infestations of rats; poor maintenance of properties rented to students by absentee landlords; vandalism and destructive behavior by students, including causing damage to neighbors' houses, yards, and property; the prevalence of group houses occupied by transient students instead of permanent residents; and the overcrowding of large groups of students into single-family residences. ~~Opponents of the proposed campus plan~~ **Many noted that these problems are significantly reduced during the summer and when the university is otherwise out of session. Opponents of the Proposed Campus Plan** generally stated that the University should not be permitted to increase its undergraduate enrollment until more on-campus housing was provided. **(Community Letters, Exhibit Nos. 61-66, 71-73, 75, 77-78, 81, 95-100, 102, 106, 108-113, 120-122, 124-130, 132-133, 137-138, 140-141, 143, 152, 163, 187).**

70. ~~43.~~ The Board finds that the number of undergraduate students at the University's campus is having an adverse impact on the surrounding neighborhood because of the frequent occurrence of serious student misconduct off-campus and the displacement of permanent, non-student housing as a result of the lack of sufficient on-campus housing. In making this finding, the Board gives great weight to OP's testimony that students living in rented houses off-campus have been a significant community problem, especially in Burleith, and to the premises underlying ANC 2E's resolution in support of the proposed ~~campus plan~~**Campus Plan**, especially ~~the postponement of an increase in enrollment until after the Southwest Quadrangle is completed,~~ a reduction in off-campus housing demand, and a stronger off-campus student affairs program.

CONCLUSIONS OF LAW AND OPINION

1. The Applicant is seeking a special exception, pursuant to sections 210 and 3104 of the Zoning Regulations, for approval of an updated ~~campus plan~~**Campus Plan** for a period of 10 years. The Board is authorized to grant a special exception where, in the judgment of the Board 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.

2. 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. ~~The Board concludes that the Applicant has met its burden of showing that the university use will not be objectionable to neighboring property. However, the Board concludes that it is necessary to condition its order to minimize any impacts from existing conditions and any potential impacts from planned future development.~~

3. In all applications to the Board for a special exception the burden of proof rests with the applicant. *President and Dir. of Georgetown Coll. v. Dist. of Columbia Bd. of Zoning and Adjustment*, 837 A.2d 58, 67 (D.C. 2003). In evaluating requests for special exceptions, the Board is limited to a determination of whether the exception sought meets the requirements of the particular regulation on which the application is based. The applicant has the burden of showing that the proposal complies with the regulation. *Id.*

4. The Board concludes that the Applicant has not met its burden of showing that the proposed University use complies with the Zoning Regulations. Specifically, the Board concludes that the Applicant has not met its burden of showing that the proposed University use will not be objectionable to neighboring property. Therefore, the Board concludes that it is necessary to condition its order on measures to minimize the impacts from existing conditions and potential impacts from planned future development, and allow the University to operate and improve its facilities to eliminate the adverse impacts on the surrounding neighborhood.

5. The Zoning Regulations specify that the number of students is one factor that the Board must take into account when assessing whether a university use in a residential zone is likely to become objectionable to neighboring property. *See* 11 DCMR § 210.2. The Board has a statutory mandate to regulate land use in the District and is expressly required to take into account the number of students in this type of case.

6. ~~The Zoning Regulations specify that the number of students is one factor that the Board must take into account when assessing whether a university use in a residential zone is likely to become objectionable to neighboring property. See 11 DCMR § 210.2.~~ In this case, the Office of Planning, the affected ANC, and parties in opposition have asserted that the number of undergraduate students at the University~~'s campus has created~~ **are creating** adverse impacts in the surrounding neighborhoods because of the frequent occurrence of serious student misconduct off-campus and the displacement of permanent, non-student housing as a result of the lack of sufficient on-campus housing. The Board concludes that both factors - the insufficient supply of on-campus housing and the repeated occurrences of off-campus student misconduct - **are creating objectionable conditions and** are likely to exacerbate objectionable impacts on neighboring property unless steps are taken to prevent that outcome. The Board notes especially the concerns of the Office of Planning about the continued viability of Burleith and other neighborhoods close to the campus, as pressures associated with the large numbers of undergraduate students threaten their livability and residential character.

~~7. Therefore, the Board concludes that approval of the 2000 campus plan must be conditioned on measures that will allow the University to operate and improve its facilities without creating adverse impacts on neighboring property. The Board is unable to find, based on the evidence in the record, that an increase in undergraduate enrollment above the cap established in the 1990 campus plan would not create an adverse impact on neighboring property. The completion of the Southwest Quadrangle project will likely result in a decrease in the number of undergraduates living off campus in surrounding neighborhoods, and the new Off-Campus Student Affairs Program is likely to lessen the incidence of serious student misconduct in the surrounding neighborhoods. However, based on the record before it, the Board cannot now find conclusively that the anticipated new dormitory and implementation of the off-campus program will in fact rectify the adverse impacts described by OP, the affected ANC, and neighborhood parties in opposition. Accordingly, the Board concludes that the cap on undergraduate enrollment of 5,627 adopted as part of the 1990 campus plan should be maintained in the approved 2000 campus plan.~~

8. The Board heard substantial, persuasive testimony describing adverse impacts on the surrounding neighborhoods resulting from the presence of undergraduate students living in those neighborhoods. Some students ~~living off-campus~~ - albeit a minority of students ~~living off-campus~~ and a small fraction of the University population - have created serious objectionable conditions in the communities surrounding the campus, particularly Burleith. The adverse impact created by students has several causes, especially the frequent incidences of student misconduct as well as the failure of landlords to ensure that their properties are adequately maintained and occupied legally, and other conditions associated with a relatively transient population living in otherwise stable neighborhoods containing primarily of single-family residences.

9. The Board ~~believes that the University must direct and guide the conduct of its students when they are living off campus. The policies established in the new Off-Campus Student Affairs program will allow the University to monitor off-campus student activity in a proactive manner to prevent adverse impacts that off-campus student houses or cars may otherwise have on the community. The Board questions whether the off-campus student housing program, as originally proposed, would have sufficient resources to address the problems created by the minority of students whose behavior has caused an adverse impact on~~**concludes that there is a direct relationship between the number of undergraduate students living off campus and the incidence of student misconduct causing serious adverse impacts in the surrounding community. Based on the evidence in the record, the Board concludes that an increase in undergraduate enrollment above the existing cap of 5,627 would create further objectionable conditions in the surrounding neighborhood. The Board notes in that connection that the fall 2000 traditional full time undergraduate enrollment exceeded that cap by 213 students. Maintenance of the current cap, and University compliance with that cap, should help prevent further objectionable conditions in the surrounding neighborhood by decreasing the number of students required to find off-campus housing due to a lack of housing on campus.**

10. The Board concludes that a substantial reduction in the number of students living off campus is necessary to eliminate the objectionable conditions that currently exist. The Board finds that the completion of the Southwest Quadrangle project and University compliance with the existing cap should result in a substantial decrease in the number of undergraduates living off campus, and the strengthened Off-Campus Student Affairs Program should lessen the incidence of serious student misconduct in the surrounding neighborhoods. However, based on the record before it, the Board cannot now find that the anticipated new dormitory and strengthened off-campus program will in fact rectify the current adverse impacts described by OP, the affected ANC, and neighborhood parties in opposition.

11. Finding that the Southwest Quadrangle was approved under the 1990 Campus Plan under which the University was granted an increase in enrollment, and that the Proposed Campus Plan contains no new on campus housing, the Board concludes that the current cap on traditional full-time undergraduate enrollment of 5,627 should be maintained.

12. The Board concludes that retention of this cap, in conjunction with the new Off-Campus Student Affairs Program, will create the highest likelihood for the University's success in eliminating the objectionable impacts on the surrounding neighborhoods. The Board concludes that before there is any increase in the traditional full-time undergraduate cap, the University must demonstrate that the objectionable conditions in the community caused by the number of undergraduate students, and in particular the number of those students living off-campus, have been remedied.

13. The Board believes that the University must direct and guide the conduct of its students when they are off campus. The Board believes that the policies established in the new Off-Campus Student Affairs program will better allow the University to monitor student activity off campus in a proactive manner to prevent adverse impacts on the community.

14. However, the Board concludes that the Off-Campus Student Affairs program, as proposed, lacked assurances that the program would have the structure, support and resources necessary and that there would be meaningful reporting of information back to the community. With the addition of ~~several~~**the** conditions specified in this Order, the Board is persuaded that the ~~off-campus student conduct~~**Off-Campus Student Affairs** program is sufficiently comprehensive, that the students will be fully committed to and knowledgeable about the standards of conduct specified in the program, and that the University has committed adequate resources to make the off-campus housing program effective. ~~The Board also concludes that graduate students are not likely to cause adverse impacts due to their greater level of maturity, and therefore the Board declines to restrict the University's proposed increase in graduate student enrollment.~~ **Additionally, the Board concludes that requiring certain aspects of the program to be administered by the Department of Public Safety, rather than the Off-Campus Student Affairs Office should ensure that the University can provide meaningful reporting of information to the community without violating its obligations under Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g. FERPA protects students' privacy interests by withholding federal funds from educational institutions that permit the release of educational records. Specifically exempted from the Act are records maintained by a law enforcement unit of the educational institution that were created by that law enforcement unit for the purpose of law enforcement. 20 U.S.C. § 1232g(a)(4)(B)(ii).**

15. The Board concludes that graduate student conduct is not likely to cause adverse impacts due to their greater level of maturity. However, the Board also recognizes that the presence of graduate students living in the community leads to the displacement of permanent, non-student housing and to additional traffic around the University. At this time, the Board declines to restrict the University's proposed increase in graduate student enrollment. Rather, the Board believes that the concerns regarding objectionable impacts are more effectively addressed by the cap on undergraduate enrollment. The displacement of non-student housing – by both graduate students and undergraduate students – is one factor that the Board has considered in deciding to maintain the current undergraduate enrollment cap.

16. ~~The~~**While agreeing with the underlying concern for imbalance, the** Board is not persuaded that OP's proposal to limit the number of undergraduate students living in Zip Code 20007 is ~~necessary. As OP itself notes, completion of the Southwest Quadrangle is likely to greatly lessen the impacts of undergraduate students on adjacent neighborhoods. In addition to concerns about whether OP's recommendation is~~ consistent with the District of Columbia Human Rights Act, D.C. Code § 1-2501, et seq.~~, it is unclear how the proposed limit would be implemented and enforced, other than through a reliance on "monitoring of the housing~~ **OP concluded that greater than 700 undergraduate students living in the 20007 zip code "would be an indication that a problem** situation **was developing**." The Board ~~believes that the conditions adopted as part of this Order, especially the cap on undergraduate enrollment and~~**concludes that maintenance of the cap at the current level, in addition to the** greater emphasis on off-campus student conduct, address the concerns raised by OP with regard to **the continued viability of the** neighborhoods bordering ~~on~~ the campus and will adequately ensure that the University will not create objectionable impacts in those neighborhoods.

17. The Board notes that the ~~proposed campus plan~~**Proposed Campus Plan** continues the same boundaries and many of the same buildings and uses approved in previous plans. No party proposed any modification to the boundaries of the Applicant~~'s campus plan~~**'s Campus Plan**. The Board concludes that the previously approved ~~campus plan~~**Campus Plan** boundaries remain reasonable and should be adopted for purposes of the 2000 ~~campus plan~~**Campus Plan**.

18. The Board concludes that the Applicant's proposed Transportation Management Program is reasonable, particularly with respect to its efforts to increase use of public transit and GUTS buses.

19. The Board ~~notes that the supply of off-street parking on campus has been restricted to a maximum of 4,080 off-street parking spaces, in accordance with the cap approved in the University's 1990 campus plan. Despite measures such as the TMP and restrictions on the use of University facilities to university-related uses, the Board is concerned that the supply of off-street parking on campus may be insufficient to ensure that the surrounding neighborhoods are not adversely affected by university-related parking that may spill over from campus to the neighborhoods. Therefore, the Board concludes that the University should provide at least 4,080 off-street parking spaces within the campus boundaries.~~**concludes that the Applicant must take appropriate actions to ensure that student-owned vehicles are not illegally parked in the community creating an objectionable condition.**

20. The Board concurs with the Applicant that its agreement with MedStar does not alter the nature of the Georgetown University Medical Center as a university use or affect the ~~campus plan~~**Campus Plan** process. The University continues to own the underlying land and the lease arrangement with MedStar has not changed the use of the hospital for zoning purposes. The Board declines to impose limits on the number of helicopter flights to the hospital, because those flights serve a broad regional need and are reasonable if not abused. However, the helicopter flights to the campus must be exclusively for medically required purposes, and the University must provide the Board and the community with periodic reports of credible evidence demonstrating compliance with this condition.

21. The Board accorded the issues and concerns of ANC 2E the great weight to which they are entitled. In doing so, the Board fully credited the unique vantage point that the ANC holds with respect to the impact of the University and its ~~proposed campus plan~~**Proposed Campus Plan** on ~~their~~**its** constituents. The ANC adopted a resolution in support of the ~~proposed campus plan,~~**Proposed Campus Plan** subject to conditions designed to minimize the potential adverse impact of the University on surrounding residential neighborhoods. **Although the ANC resolution recognized an increase in enrollment, it also included a University commitment to reduce off-campus housing demands in nearby neighborhoods to approximately 400 undergraduate students. An increase in the cap is incongruous with this commitment. An increase in enrollment to 6,016 would result in at least 1,063 (6,016-4,953) undergraduate students living off-campus after the completion of the Southwest Quadrangle brings the total number of on-campus beds to 4,953 (4,173+780). Finding that the number of undergraduate students living off-campus has the greatest potential for creating objectionable conditions in the community, the Board therefore concludes that the current enrollment cap must be maintained.**

22. The Board concludes that upon the completion of the Southwest Quadrangle and the demonstrated elimination of objectionable impacts in the community related to the number of students, the University may petition the Zoning Commission for an increase in the undergraduate enrollment cap.

Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

Court of Appeals Discussion: Conditions 3(c), 4(b), 5, 8, and 10 of the Original Campus Plan Order have been deleted from this proposed Order to comply with the ruling of the Court of Appeals. The following Proposed Order addresses the remaining issues raised by the Court of Appeals decision.

1. ~~[Condition revised 6 Aug 2001]~~ The Applicant~~'s proposed campus plan~~**'s Proposed Campus Plan** is approved until December 31, 2010, subject to the following conditions intended to mitigate any adverse impacts potentially arising from the location of a university use in a residentially zoned district**, or until such time prior to December 31, 2010 as the Zoning Commission determines that conditions warrant submission of an updated Campus Plan or grants a request to amend the plan**.

Court of Appeals Discussion: This Condition is identical to Condition 1 of the Original Campus Plan Order. Neither Georgetown nor the Court of Appeals objected to this condition.

This Condition is supported by Conclusions of Law ¶1-¶4, and ¶21.

2. The Applicant shall not**, at any one time,** increase **actual** undergraduate enrollment above the cap of 5,627. This cap shall apply to **each semester; averaging of enrollment is not permitted. The cap shall apply to** traditional full-time undergraduate students; that is, undergraduate students who require housing.[1]

Court of Appeals discussion:

This Condition is supported by Findings of Fact ¶6-¶22, ¶39-¶42, ¶45, ¶56-¶59, ¶61-¶63, ¶65-¶66, ¶68-¶70, and Conclusions of Law ¶4-¶11, ¶14-¶16, and ¶20.

Court of Appeals requirements

***The Court of Appeals concluded that "the Board made no findings 'of a basic or underlying nature,' explicating how a small and gradual increase in enrollment, under a plan which significantly increased the number of students living on campus and reduced the need for off-campus housing would adversely affect the adjoining neighborhoods."* 837 A.2d at 74 *(citations omitted). To satisfy the Court of Appeals mandate, the Board must describe, " in non-conclusory terms the manner in which the retention of the cap would protect the residents of the adjoining communities" and " the need for continuing the 1990 cap, based on reasonably detailed underlying evidentiary findings."* 837 A.2d at 75.**

However, the Court of Appeals rejected as "altogether unreasonable" the University's argument that the BZA inquiry should be limited to whether the new Campus Plan would significantly increase the objectionable conditions in the neighborhood. **837 A.2d at 63 n.7.** ***It thus specifically found the BZA authorized to take action necessary to mitigate existing objectionable conditions in the neighborhood in the Campus Plan review process.***

The 1990 Campus Plan Cap

In the 1990 Campus Plan proceedings and the current proceedings, substantial evidence has linked the increase in the number of students living off campus to a rise in objectionable conditions in the community. The Board, in the 1990 Campus Plan order, approved a full-time equivalent undergraduate enrollment cap of 5,627, an increase in 340 over the 1989-90 full-time undergraduate enrollment of 5287. Recognizing the potential for objectionable conditions caused by students living in off-campus housing, the Board conditioned the increase in the enrollment cap on the provision of 925 new beds on campus which would have produced a substantial net reduction in the number of students living off campus. Any actual increase in enrollment was also conditioned on the provision of additional beds on campus to accommodate that increase. Additionally, the 1990 Campus Plan set a goal to house 100% of undergraduate students in on-campus housing.

From 1990-2000, the University added 303 beds, which effectively capped traditional full-time undergraduate enrollment under the 1990 Campus Plan to 5,590. The University did not meet its on campus housing commitments under the 1990 Campus Plan until the Southwest Quadrangle was completed in 2003. In 2000, more students were living off-campus than ever before and the incidence of misconduct by students living off campus was very high.

The University argues that the proposed increase in enrollment will be phased in after the completion of the Southwest Quadrangle and that there will be a net reduction in the number of undergraduates living off campus after it is built. This argument ignores the fact that approval of the 1990 Campus Plan was premised on a substantial reduction in the number of undergraduate students living off campus and that completion of the Southwest Quadrangle was a condition of that plan. If the University's proposed increase in the cap were approved, the completion of the Southwest Quadrangle in the fall of 2003 would not result in a substantial reduction of students living off campus. The increase in the number of on campus beds (780) would be cut in half by the proposed increase in enrollment (389). As the evidence in this proceeding demonstrates, and as the Board found in 1990, a substantial reduction in the number of undergraduate students living off campus is required to eliminate the potential for the current objectionable conditions in the community continuing indefinitely.

Current Objectionable Conditions

The Proposed Findings of Fact demonstrate that over the ten years leading up to the 2000 Campus Plan, an increasing number of both undergraduate and graduate students have moved off-campus leading to further displacement of single family residences, further objectionable conditions due to behavioral issues and further parking problems. While the number of students living off campus is not precisely known, due to the University's "Traditional Full-Time Undergraduates" unit of measurement it is likely far greater than the number of students Georgetown has reported. For example, according to OP figures, in addition to the 1,041 traditional undergraduate students living in the 20007 zip code during Spring 2000, there were also 301 "non-traditional" undergraduate students living in the 20007 zip code. (See OP June 12 Report at Attachment H, Exhibit No. 52). That these figures were from the spring semester is also important since the University stated that spring enrollment is usually 6-10% less than fall enrollment. (Applicant's Response to Request for Additional Information; Exhibit No. 191, Appendix P, P. 8). The traditional full-time undergraduate enrollment figures for fall 1999 and fall 2000 show that the University has increased traditional full-time enrollment above the cap resulting in at least 1,667 traditional full-time undergraduates living off-campus plus an increasing number of graduate students. While not all off-campus students live in the Georgetown community, OP calculated that 84% of off-campus students live in the 20007 zip code. Even when reduced by that factor the number of undergraduate students living off campus in Georgetown is substantially higher than envisioned under the 1990 Campus Plan and a direct cause of the increasing incidence of student misconduct in Georgetown since 1990.

The Proposed Findings of Fact demonstrate that the number of undergraduate students attending the University has created objectionable conditions in the neighborhood for several years. The report of the Office of Planning, and the testimony of several neighborhood associations and many individual community members, indicate a clear connection between the number of students living off-campus and the current objectionable impact on the community. Maintaining the cap at current levels will prevent any further growth in the off-campus undergraduate student population thereby preventing the further displacement of single-family residences. While continuing the cap at current levels is not likely to improve the objectionable conditions caused by the conduct of undergraduate students and illegal parking, it should prevent it from becoming worse.

The opening of the Southwest Quadrangle has resulted in a modest net reduction in undergraduate students living off campus; however, it has not been sufficient to lessen student misconduct by students off campus. Data from the University's quarterly reports to the Board for the last two quarters of 2003 (i.e., Fall 2003) indicate a total of 189 hotline calls resulting in a total of 52 offenses and 28 sanctions. Similar data for first two quarters of 2004 (i.e., Spring 2004) indicate a total of 100 offenses committed by off-campus students and 12 offenses committed by on-campus students while off campus resulting in a total of 212 sanctions. These figures do not include Noise Control Act citations and warnings issued by MPD, of which there were 25 during Spring 2004. Again, it is significant that this increasing number of offenses occurred in the spring since the University has stated that spring enrollment is typically 6-10% less than fall enrollment (Applicant's Response to Request for Additional Information; Exhibit No. 191, Appendix P, P. 8). Clearly an objectionable impact still exists and allowing any increase in enrollment will only further exacerbate these objectionable conditions.

Georgetown May Petition for an Increase in the Cap

In BZA Order 16566B, the Board modified Condition 1 to allow amendment to the Campus Plan. In so doing, the Board recognized that "circumstances may change to an extent that renders the new plan, or a condition of its approval in some way out of date or inapplicable." A specific modification that the Board contemplated was an " increase[] in student enrollment based upon facts not presently in the record." The current record is a snap-shot of Georgetown as it existed nearly 4 years ago. As CAG noted in its previous submission to the Board on August 2, 2004, much has changed since the record in this proceeding was closed. Proposed Conditions 1 and 2 do not limit the University to the 1990 cap until 2010. Rather, as noted by Commissioner Franklin, the Zoning Commission would be able to consider a future Georgetown request for an increase in the enrollment cap "with much better information as to the effectiveness of the off-campus housing plan that has been instituted. We would be able to look at the possibilities of an increase in enrollment knowing much more than we know today about the effectiveness of that program." (BZA Transcript, November 8, 2000, 30:20-31:1). These conditions thus allow the University an opportunity to present its case for an increase in the enrollment cap, provide the community an opportunity to present evidence concerning the incidence of student misconduct and give the Zoning Commission an opportunity to make an informed decision.

Averaging Must be Prohibited

In an application for further processing under this Campus Plan, CAG noted that the University was not in compliance with the undergraduate cap set in the original campus plan Order of this Board. CAG argued that the practice of averaging defies the very definition of a cap and that the use of averaging is inconsistent with a cap whose purpose is to prevent adverse impacts on the surrounding neighborhood caused by the number of undergraduate students attending the University. The Zoning Commission agrred with CAG and ruled, "The Commission does not agree with the Applicant that the use of average enrollment during an academic year is appropriate for purposes of determining compliance with the cap on undergraduate enrollment established in the Campus Plan. With respect to further processing applications that may be filed in the future, the Commission will not assess compliance with the enrollment cap on the basis of an average of the fall and spring semesters of an academic year, but will consider the enrollment cap to be the maximum permitted enrollment of undergraduate students at any given time during the academic year." (Zoning Commission Order 02-32, ¶26). After reconsideration, and a complete review of the record, the Zoning Commission stayed the effective date of that paragraph until November 12, 2004, to give the University adequate time to comply. (Zoning Commission Transcript, November 12, 2003, 119:10-131:6). Accordingly the proposed Order clarifies that averaging is no longer permitted.

~~3. The~~ **3. The Applicant shall maintain an** Off-Campus Student Affairs Program ~~implemented and enforced by the Applicant shall specify that off-campus housing is a privilege that can be revoked due to student misconduct, whether a violation occurs on- or off-campus.~~ **that effectively educates students on their rights and responsibilities in the community, and monitors and regulates the conduct of all students when they are off-campus such that noise, traffic, and other objectionable conditions do not have an adverse impact on neighboring property. In implementing this program the Applicant shall:**

a. ~~The Applicant shall~~ ensure that the Off-Campus Student Affairs Program is fully funded and staffed, and shall obtain the endorsement of the University's Board of Directors for the program and its implementation~~.~~**;**

b. specify that a student's ability to live in off-campus housing can be revoked for misconduct, whether a violation occurs on or off campus;

c. conduct periodic community education workshops for students living off-campus;

d. maintain a telephone hotline staffed by the Applicant's Department of Public Safety to receive complaints regarding student misconduct off-campus;

e. ~~b. The Off-Campus Student Affairs Program shall~~ specify the measures that ~~University personnel~~**the Applicant's Department of Public Safety** shall undertake, immediately upon receiving a complaint regarding student misconduct, to resolve any objectionable behavior pending the University's investigation of a complaint~~.~~**;**

~~c. The Off-Campus Student Affairs Program shall conduct at least annually a community education workshop that is mandatory for all students living off-campus.~~

~~4. The Off-Campus Student Affairs Program shall adopt and enforce a Code of Student Conduct.~~

~~a. The Code of Student Conduct shall clearly describe appropriate standards of behavior, delineate misconduct that constitutes a violation of the Code, and specify the sanctions that will be imposed for violations, particularly with respect to the consequences of repeated violations.~~
~~*At its public meeting held December 5, 2000, Board members Robert Sockwell, Sheila Cross Reid, and Anne Renshaw voted to approve a condition that would have permitted the University to increase enrollment once the Southwest Quadrangle was completed. At the Board's executive session held March 27, 2001, those members and Commissioner Herbert Franklin, who had heard all the testimony, voted to modify Condition No. 2 of this Order to clarify its intent with respect to alleviating adverse impacts on surrounding neighborhoods associated with the number of students living off-campus.*~~

~~b. The Applicant shall distribute copies of the Code of Student Conduct to students at least annually, and shall require students to certify in writing that they agree to adhere to the Code.~~

~~5. The Code of Student Conduct shall provide that, once a complaint is received concerning a student's off-campus conduct, a University officer (e.g. the Vice President for Student Affairs or Assistant Dean for Off-Campus Student Affairs) shall determine whether probable cause exists to bring the complaint before a Hearing Board, thereby relieving the original complainant of the obligation to pursue the matter.~~

~~6. The Applicant shall maintain a telephone hotline to receive complaints regarding student misconduct. The hotline shall be staffed 24 hours per day, seven days per week, by University personnel who shall keep a detailed record of each complaint received and shall forward each complaint to the appropriate authorities for immediate response.~~

f. initiate disciplinary proceedings to impose appropriate sanctions for any student misconduct found to have occurred;

g. ~~7. When~~**investigate complaints received by** the Applicant~~, upon investigation of a complaint or by any other means, receives evidence of a~~**'s Department of Public Safety regarding** violation of sanitation or housing regulations involving or affecting students living in an off-campus residence~~, the Applicant shall report the violation to the housing provider, the Department of Consumer and Regulatory Affairs, Department of Public Works, or other agency as appropriate. The Applicant shall monitor enforcement of reported violations to determine whether necessary inspections have occurred and whether fines have been issued and paid, and shall keep detailed records of reported complaints and responses.~~ **and report findings to the appropriate District agency;**

~~8. The Applicant shall ensure that complaints are heard by a Hearing Board comprising two students and two faculty members, reflecting the University's recognition of the seriousness of complaints about student misconduct.~~

h. ~~9. The Applicant shall~~ make publicly available data indicating the number and types of complaints received concerning student misconduct **off-campus by students living on or off-campus**, and the outcome of each complaint, including ~~whether~~**any** sanctions ~~were~~ imposed ~~and whether any fines paid.~~**by the University.** The Applicant shall also report this information quarterly to the Office of Planning, the Zoning Administrator, ANC 2E, and the Alliance for Local Living, and to other interested community organizations that may request the information~~.~~**; and**

~~10. The Applicant shall report a violation of the Code of Conduct to the parents or guardians of the violator to the extent permitted by law.~~

i. continue the quarterly meeting process established by the Board in 1990.

Court of Appeals Discussion: The Court of Appeals determined that many of the previous conditions relating to the off campus student affairs program "involve[d] the board in the details and mechanics of the University's enforcement of student discipline and other similar concerns." 837 A.2d at 77. CAG's proposed conditions deletes the provisions to which the Court of Appeals objected and simply requires the University to devise and implement an Off Campus Student Affairs Program similar to that proposed by the University in its original Proposed Findings of Fact & Conditions of Law.

The preamble to Condition 3 sets forth the intent of the Off-Campus Student Affairs Program and clarifies that it applies to the conduct of all students occurring off-campus, whether the student lives on-campus or off-campus.

Subsection (a)

This Condition is supported by Findings of Fact ¶24-¶25, ¶27, ¶37, ¶56, ¶59, and ¶69, and Conclusions of Law ¶4 and ¶11-¶13.

Subsection (a) above is identical to Condition 3(a) of the Original Campus Plan Order. Neither Georgetown nor the Court of Appeals objected to this condition. Based on the record, this Condition has already been satisfied. (Letter from Board of Directors, Exhibit 169 at Exhibit P)

Subsection (b)

This Condition is supported by Findings of Fact ¶24-¶25, and ¶63, and Conclusion of Law ¶4.

Subsection (b) above is identical to Condition 3 of the Original Campus Plan Order. Neither Georgetown nor the Court of Appeals objected to this condition.

Subsection (c)

This Condition is supported by Findings of Fact ¶24-¶25, and ¶57, and Conclusions of Law ¶4, ¶12-¶13.

Subsection (c) above is similar to Condition 3(c) of the Original Campus Plan Order. The Court of Appeals concluded that the University, not the Board, should determine how often students living off campus should be required to attend community education workshops. Although CAG believes that students and the community would benefit from annual attendance by students at a community education workshop, the requirement that they be attended annually has been deleted.

Subsection (d)

This Condition is supported by Findings of Fact ¶24-¶26, ¶63, and ¶69, and Conclusions of Law ¶4, ¶12-¶13.

Subsection (d) above is similar to Condition 6 of the Original Campus Plan Order. The Court of Appeals concluded that the Board's imposition of an around the clock staffed hotline was arbitrary given that the student hotline may receive no calls during weekdays, weeknights, or mornings. CAG's proposed condition addresses this concern as well as the University's FERPA reporting concerns.

By requiring the hotline to be a part of the University's Department of Public Safety ("DPS"), FERPA concerns raised by the University are eliminated. As the Court of Appeals notes, "FERPA protects students' privacy interests by withholding federal financial assistance to educational institutions that have 'a policy or practice of permitting the release of educational records' or 'personally identifiable information contained therein other than directory information', unless disclosure is permitted by an exception to the Act." 837 A.2d at 78 n.21, citing 20 U.S.C. § 1232g(b)(1). Specifically exempted from the Act are records maintained by a law enforcement unit of the educational institution that were created by that law enforcement unit for the purpose of law enforcement. 20 U.S.C. § 1232g(a)(4)(B)(ii). The Court of Appeals specifically suggested, "the BZA might limit the University's reporting obligation to apply only to complaints received by the University's Department of Public Safety." Id.

DPS is under the supervision of the Office of Student Affairs, which also has oversight over the Off-Campus Student Affairs Program. DPS already maintains a telephone line 24 hours per day that records complaints and refers calls to MPD (Applicant's Response to Request for Additional Information; Exhibit No. 191, Appendix P, P. 7). The concept of a separate "hotline" has proven unworkable and is unnecessarily duplicative of existing facilities. DPS staff already serve as the University's first responders in an emergency situation. It is therefore appropriate that DPS serve as the operator of the hotline. The only effective alternative at the present time is for residents to call the D.C. Police to respond to each incident of misconduct. The DPS hotline affords the University the opportunity to respond to issues internally, rather than subjecting its students to fines and arrest while District taxpayers are burdened with the expense.

Subsection (e)

This Condition is supported by Findings of Fact ¶24-¶26, and ¶63, and Conclusions of Law ¶4, ¶12-¶13.

Subsection (e) above is similar to Condition 3(b) of the Original Campus Plan Order. Neither Georgetown nor the Court of Appeals objected to this condition. To eliminate FERPA issues and be consistent with condition 3(d), CAG has revised the Condition to place this responsibility under the DPS.

Subsection (f)

This Condition is supported by Finding of Fact ¶25, and Conclusions of Law ¶4, ¶12-¶13.

Subsection (f) above is similar to Conditions 5 and 8 of the Original Campus Plan Order. This Condition conforms to the Court of Appeals decision because it only requires Georgetown to bring disciplinary action when warranted; it does not dictate the procedures of such disciplinary proceedings.

Subsection (g)

This Condition is supported by Findings of Fact ¶24-¶26, and Conclusions of Law ¶4, ¶12-¶13.

Subsection (g) above is similar to Condition 7 of the Original Campus Plan Order. Georgetown objected to this condition on the grounds that reporting violations of sanitation or housing regulations to District authorities could force it to violate FERPA. As the Court of Appeals suggested with respect to original Condition 6 (See Subsection (d) above), CAG has limited the University's reporting obligation to apply only to complaints received by DPS to eliminate FERPA issues.

Subsection (h)

This Condition is supported by Finding of Fact ¶25, and Conclusions of Law ¶4, ¶12-¶13.

Subsection (h) above is similar to Condition 9 of the Original Campus Plan Order. Neither Georgetown nor the Court of Appeals objected to this condition. This Condition has been revised to clarify that the reporting requirements apply to incidences of off-campus misconduct by any student, not just those living off-campus.

Subsection (i)

This Condition is supported by Findings of Fact ¶25 and ¶65, and Conclusions of Law ¶4, ¶12-¶13.

Subsection (i) above was not a part of the Original Campus Plan Order. It was originally proposed by Georgetown and remains an important forum for communication between the University and the community. (See GU FOF Condition 13, Exhibit No. 186) Although not specifically required by the 2000 Order, Georgetown has in fact continued these meetings. The Order should contain a provision requiring the continuation of these meetings.

3. ~~11.~~ The Applicant shall avoid scheduling events that attract large numbers of visitors to the campus during the peak traffic times of 7 ~~am~~**a.m.** to 9 ~~am~~**a.m.** and 4 p.m. to 7 p.m. The Applicant shall employ campus personnel as necessary to direct visitors to campus parking areas and to ensure smooth flow of traffic into and out of the campus.

a. All weekday evening performances at the Performing Arts Center expected to draw more than 100 visitors shall begin no earlier than 7:00 p.m.

b. Athletic events at Harbin Field expected to draw over 100 visitors shall begin before 4:00 p.m. or after 7:00 p.m.

Court of Appeals Discussion: This condition is identical to Condition 11 of the Original Campus Plan Order. Neither Georgetown nor the Court of Appeals objected to this condition.

This Condition is supported by Finding of Fact ¶65 and Conclusion of Law ¶4.

4. ~~12.~~ The Performing Arts Center, Harbin Field, and McDonough Arena shall be used for purposes related to the University or the community, and not for non-University events whose primary purpose is revenue generation.

Court of Appeals Discussion: This condition is identical to Condition 12 of the Original Campus Plan Order. Neither Georgetown nor the Court of Appeals objected to this condition.

This Condition is supported by Finding of Fact ¶65 and Conclusion of Law ¶4.

5. ~~13.~~ The helipad shall be used only for medically necessary purposes. The Applicant shall provide monthly reports regarding use of the helipad, including credible evidence of medical necessity associated with its use, to ANC 2E, the Alliance for Local Living, and other community organizations that request the information.

Court of Appeals Discussion: This condition is identical to Condition 13 of the Original Campus Plan Order. Neither Georgetown nor the Court of Appeals objected to this condition.

This Condition is supported by Finding of Fact ¶60 and Conclusions of Law ¶4 and ¶19.

6. ~~14. [Condition revised 6 Aug 2001] The Applicant, through its Office of the Registrar,~~ **The Applicant shall require all University students to provide it with a copy of the vehicle registration of any vehicle that they intend to keep or have kept within the District of Columbia for more than 30 days. The Applicant** shall maintain an accurate ~~record~~**list** of ~~the~~**vehicle** license plate numbers ~~of motor vehicles~~ kept by all University students~~. The Applicant~~ **and** shall direct ~~the~~**its** students to register their vehicles in the District of Columbia~~, or obtain a reciprocity sticker, and shall consult with the D.C. Department of Motor Vehicles to determine whether such registration is completed or such stickers are obtained. The Applicant shall withhold parking privileges to students who do not comply with D.C. registration or reciprocity requirements. Failure to register~~ **if they are kept in the District of Columbia for more than 30 days. The Applicant shall require each student keeping a vehicle within the District of Columbia for more than 30 days to provide evidence of registration of that vehicle in the District of Columbia. Failure to register such** student vehicles in the District ~~or to obtain reciprocity stickers~~**of Columbia** shall constitute a violation of the Code of Student Conduct.

Court of Appeals Discussion: This condition is similar to Condition 14 of the Original Campus Plan Order. After declaring the University's objections to consulting with the District of Columbia Department of Motor Vehicles moot, the Court of Appeals found that the University had not met its burden of showing that Condition 14 was arbitrary and capricious. 837 A.2d at 82. However, the Court of Appeals suggested that the Board take a "fresh look" at this provision to determine whether it is likely to achieve its goal of reducing objectionable impact on the community by curtailing illegal student parking. Currently, many University students who park their cars off-campus do not register their cars in the District as required by law. This creates parking difficulties for community residents that do comply with those laws. Residents have difficulty finding parking in the neighborhood because University students who do not comply with registration laws occupy the already limited available spaces. The requirement that the University obtain information from its students about their vehicle registration is an effective means to curtail illegal parking and provides a disincentive for students to bring their out of state vehicles to school.

This Condition is supported by Findings of Fact ¶32-¶35, ¶62 and ¶69, and Conclusions of Law ¶4 and ¶18.

7. ~~15. [Condition revised 6 Aug 2001]~~ The Applicant shall maintain ~~at least~~**the current parking cap of** 4,080 off-street parking spaces within the campus boundary to avoid encouraging additional cars ~~off~~**from coming to the** campus.

Court of Appeals Discussion: This condition is similar to Condition 15 of the Original Campus Plan Order. The Court of Appeals objected to this condition because it was unclear whether 4,080 was a cap or floor. 837 A.2d at 80-81. The condition has been modified to clarify its intent as a cap. The Court of Appeals concluded that this Condition, "if construed as a cap and only a cap, would be supported by substantial evidence and would not be arbitrary and capricious." 837 A.2d at 81.

This Condition is supported by Findings of Fact ¶30 and ¶52, and Conclusion of Law ¶4.

8. ~~16.~~ The Applicant shall enhance its Transportation Management Program:

a. to promote greater transit usage, including increased ridership of the GUTS bus service;

b. to provide additional parking in satellite locations linked to the campus by shuttle bus;

c. to work with the community, MedStar, and the Department of Public Works as part of a cooperative team effort to look at mitigation strategies for Reservoir Road.

Court of Appeals Discussion: This condition is identical to Condition 16 of the Original Campus Plan Order. Neither Georgetown nor the Court of Appeals objected to this condition.

This Condition is supported by Findings of Fact ¶29-¶31, ¶36, ¶47, ¶54, and ¶67 and Conclusions of Law ¶17 and ¶19.

9. ~~17.~~ The Applicant shall include, in all future applications for further processing of the ~~campus plan~~**Campus Plan**, the following information:

a. actual enrollment of traditional **full-time** undergraduate students, as of 30 days prior to the hearing date, including documentation and an explanation of the methods and assumptions used in the calculation;

b. whether the Southwest Quadrangle project has been completed, and, if so, the date it began use as an undergraduate dormitory;

c. ~~a progress report on the implementation and operation of~~**evidence demonstrating that** the Off-Campus Student Affairs Program~~, including information on number of complaints received concerning student misconduct, reported violations, and outcomes, including what sanctions were imposed and the fines paid, if any;~~ **has been effective in reducing student misconduct off-campus, and that student misconduct off-campus has been appropriately sanctioned on an ongoing basis.**

d. the number of off-street parking spaces within campus boundaries, as of 30 days prior to the hearing date, including documentation and an explanation of the methods and assumptions used in the calculation; and

e. a status report on the Transportation Management Program.

Court of Appeals Discussion: This condition is similar to Condition 17 of the Original Campus Plan Order. Neither Georgetown nor the Court of Appeals objected to this condition. CAG has revised subsection (c) to clarify that the evidence provided in a further processing plan must demonstrate that the Off-Campus Student Affairs Program has been effective in reducing student misconduct off-campus, not that a plan merely exists.

10. ~~*18.* [Condition revised 6 Aug 2001]~~ The Applicant shall prepare a revised ~~*campus plan*~~**Campus Plan** that is consistent with this Order and shall submit an original and 10 copies of the revised plan to the Board no later than 90 days from the effective date of this Order. The revised plan shall be accompanied by a table of changes that lists each page on which a change appears, and describes each change. The Board shall certify the revised copy as the approved ~~*campus plan*~~**Campus Plan**. Copies of the approved plan shall be maintained in the Office of Zoning and the Office of the Zoning Administrator.

Court of Appeals Discussion: This condition is identical to Condition 18 of the Original Campus Plan Order. Neither Georgetown nor the Court of Appeals objected to this condition.

11. ~~*19.* [Condition revised 6 Aug 2001]~~ No special exception application filed by the University for further processing under this plan may be granted unless the University proves that it has consistently remained in substantial compliance with Conditions 1 through ~~*18*~~**10** set forth in this Order. **For purposes of this condition, substantial compliance with Condition 4 means that the University has implemented the Off-Campus Student Affairs Program and that it has been has been effective in reducing student misconduct off-campus.** Further, any violation of a condition of this Order shall be grounds for the denial or revocation of any building permit or certificate of occupancy applied for by, or issued to, the University for any University building or use within the campus boundary, and may result in the imposition of fines and penalties pursuant to the Civil Enforcement Act, D.C. Code §§ 6-2701 to 6-2723.

~~**VOTE: 4-0-1** (Robert N. Sockwell, Sheila Cross Reid, Anne M. Renshaw, and Herbert Franklin to grant; NCPC member not present, not voting.)~~

Court of Appeals Discussion: This condition is similar to Condition 19 of the Original Campus Plan Order. Neither Georgetown nor the Court of Appeals objected to this condition. CAG has revised this condition to clarify that the evidence provided in a further processing plan must demonstrate that the Off-Campus Student Affairs Program has been effective in reducing student misconduct off-campus, not that a plan merely exists. The Court of Appeals has ruled that a moratorium on non-residential development on the campus, if imposed for a meaningful violation, is not unreasonable. 837 A.2d at 63 n.2 citing George Washington Univ. v. District of Columbia Bd. of Zoning Adjustment, 831 A.2d 921, 934-34 (D.C. 2003) and George Washington Univ. v. District of Columbia 318 F.3d 203, 211 (D.C. Cir. 2003).

VOTE:

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member has approved the issuance of this Order.

Final Date of Order: ~~MAR 29 2001~~

PURSUANT TO 11 DCMR §3125.6. THIS ORDER WILL BECOME FTNAL UPON ITS FILTNG IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR §3125.9, THIS ORDER WILL BECOME EFFECTIVE 10 DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

THE APPLICANT SHALL COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, CODIFIED AS CHAPTER 25 IN TITLE 1 OF THE D.C. CODE. SEE D.C. CODE § 1-2531 (1999). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THE HUMAN RIGHTS ACT. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

CERTIFICATE OF SERVICE

I certify that copies of the foregoing *Citizens Association of Georgetown Proposed Findings of Fact and Conclusions of Law* were hand delivered or mailed, postage prepaid, on December 23, 2004 to the following:

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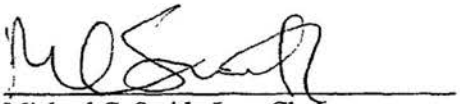
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