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MAUREEN E. DWYER
202.663.8834
maureen.dwyer@shawpittman.com

December 23, 2004

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By Hand Delivery

Mr. Geoffrey Griffis
Chairperson
Board of Zoning Adjustment
441 Fourth Street, N.W., Room 201
Washington, DC 20001

Re: BZA Application No. 16566-~~D~~E

Dear Mr. Griffis:

I have enclosed for consideration by the Board of Zoning Adjustment, the proposed Order on Remand on behalf of Georgetown University.

Sincerely,

Maureen Dwyer

Maureen E. Dwyer

Enclosure

BZA
Case No. 16566
Exhibit No. 289

Board of Zoning Adjustment
District of Columbia
CASE NO.16566
EXHIBIT NO.289

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16566-E of the President and Directors of Georgetown College, pursuant to 11 DCMR § 3104.1, for a special exception for the review and approval of the University Campus Plan – years 2000-2010 under Section 210 in the R-3 and C-1 Districts at premises bounded by Glover Archbold Parkway to the west, the National Park Service property along the Chesapeake & Ohio Canal and Canal Road to the south, 35th Street, N Street to 36th Street, and 36th Street to P Street to the east and Reservoir Road to the north. (Square 1222, Lots 62, 801-810; Square 1223, Lots 85-86, 807-810, 812, 815, 826, 827, 831, 834, 846-847, 852-853, 855, and 857-858; Square 1226, Lots 91, 94-101, 104-105, 803-804, 806, and 811-815; Square 1248, Lots 122-125, 150-157, 800-802, 804-806, 829-831, and 834-835; Square 1321, Lots 815-817.)

HEARING DATES: June 13, and July 18, 2000

DECISION DATES September 5, November 8, and December 5, 2000

ORDER DATE: March 29, 2001

RECONSIDERATION DECISION DATE: June 5, 2001

STAY DECISION DATE: September 4, 2001

CERTIFICATION DECISION DATE: March 5, 2002

DC COURT OF APPEALS DECISION DATE: December 4, 2003

PROCEDURAL ORDER ON REMAND: October 15, 2004

ORDER ON REMAND

The Applicant in this case is the President and Directors of Georgetown College (hereinafter "University" or "Applicant"), as owner of its campus, described above. The University filed an application with the Board of Zoning Adjustment on January 31, 2000, for special exception under 11 DCMR § 3104.1 to approve its 2000-2010 campus plan for its campus property, which is located in the R-3 and C-1 Districts. Following a public hearing, the Board voted 4-0-1, to approve the application, subject to various conditions, which were subsequently, on June 5, 2001, modified slightly on reconsideration. By decision dated December 4, 2003 ("Op."), the District of Columbia Court of Appeals vacated the Order, struck down a number of the conditions, and provided guidance for the elimination or modification of other conditions. This Order on Remand implements the Court's mandate.

PRELIMINARY MATTERS

Advisory Neighborhood Commission ("ANC") 2E was a party in this proceeding. The Board received requests for party status from the Burleith Citizens Association ("BCA"), Citizens Association of Georgetown, Cloisters in Georgetown Homeowner's Association, Foxhall Community Citizens Association, Georgetown Residents Alliance, and Hillandale Homeowners Association. These requests were all granted. The Wormley Neighbors Association also requested to participate as a party, but failed to appear at the hearing. Its request for party status was denied.

1. The President and Directors of Georgetown College (hereinafter "University" or "Applicant") filed an application January 31, 2000 for review and approval of the Georgetown University Campus Plan for Years 2000-2010.

2. 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 projected increase in the cap on traditional full-time undergraduate enrollment by 111 students, so that the total proposed increase was 389 rather than 500; (2) proposing to delay any increase above its current cap until after the Southwest Quadrangle project was occupied or until Fall 2003; (3) strengthening the University's off-campus student affairs program through specific proposed measures; and (4) providing the Zoning Commission with progress reports in every future application for further processing. (R. 398-399.)

FINDINGS OF FACT

3. The Georgetown University campus, known as premises 3800 Reservoir Road, comprises 104 acres zoned R-3 or C-1 located within the Georgetown Historic District. The campus is bordered on two sides by public parkland and Canal Road. The southern boundary extends east along Prospect Street to 35th Street, excluding the structure on the north side of Prospect Street between 36th and 37th Streets. The campus is bounded on the west by Glover Archbold Park and on the north by Reservoir Road. The eastern boundary runs from Reservoir Road at 37th Street south and east past the Cloisters residential development and the grounds of the Sisters of Visitation High School and Convent to a point just west of 36th and P Streets, then continues south, excluding a row of residences on the west side of 36th Street to O Street, south on 36th Street to N Street, east to 35th Street, and finally south to Prospect Street. (R. Supp. 40-41.)

4. The University has been located on its present campus since its founding in 1789. (R. Supp. 30.) With certain exceptions, the campus boundaries include land

owned by the University that has been actively devoted to university use for over 200 years. (R. Supp. 30-32.) The proposed campus plan does not seek any change in the previously adopted campus boundaries, and does not propose to move any major new building off campus. (R. 436, R. Supp. 40, R. Supp. 54.)

5. The Applicant submitted a plan for developing the campus as a whole, showing the location, height, and bulk of all present and proposed improvements, as required by 11 DCMR § 210.4. (R. Supp. 50-54.)

6. The proposed campus plan anticipates several new developments on campus, including a science building, a business school, an administrative/academic building, and a physicians' office building at the Medical Center. Other projects set forth in the proposed plan include additions or renovations to several existing buildings as well as the renovations of Harbin Field into a multi-sports facility and McDonough Gym to allow its use as a convocation center. (R. 1936, R. Supp. 6, R. Supp. 22.)

7. The proposed additional gross footage and existing square footage will result in a floor area ration ("FAR") of 1.41, or 0.39 below the 1.8 FAR permitted by the Zoning Regulations. *See* 11 DCMR §§ 210.3, 402.4. (R. Supp. 18, R. Supp. 49, R. Supp. 58, R. Supp. 510.)

8. In Spring 2000, approximately 77-78 percent of the University's traditional undergraduate students lived on campus. "Traditional undergraduate students" do not include students of English as a second language, part-time students, commuters and other students not requiring University housing. (R. 434, R. 439, R. Supp. 8.)

9. The University demonstrated that a new residence hall project, the Southwest Quadrangle, was scheduled to be completed by Fall 2003, providing 780 new beds on campus, responding to, among other things, pressure from community groups to increase the availability of on-campus housing. (R. 415, R. 2110, R. Supp. 5, R. Supp. 18, R. Supp. 49.) The collective community groups "supported the Southwest Quadrangle [as] ... a good use of limited space, both for the University and the community." (R. 1269.) These 780 beds will more than absorb the additional 389 traditional undergraduates projected over the life of the plan. (R. 1937.)

10. The Applicant agreed that the requested increase in traditional undergraduate enrollment of 389 would be deferred until the Southwest Quadrangle was completed in Fall 2003 (R. 398, R. 883-884, R. 1785) and then phased in evenly over the remaining years of the Campus Plan after occupancy of the Southwest Quadrangle. (R. 415-416, R. 441, R. 451, R. 1151, R. 1937.) In response to the

Board's request for detailed information regarding updated enrollment figures, the Applicant also provided information regarding the methods by which it had measured traditional undergraduate enrollment since the time of its 1990 Campus Plan when a cap of 5,627 traditional undergraduate students was first imposed. (R. 1951.) The Applicant responded by submitting a comprehensive chart that detailed its position and responses on several issues, including enrollment. (R. 1944-1951.) In that chart, the University detailed its current and recent past enrollment figures as they related to the then-cap of 5,627, and also articulated its enrollment measuring methodology and the academic reasons for that methodology as follows:

> The Fall [2000] enrollment number of traditional full-time undergraduate students is 5840. This compares with last year's Fall enrollment number of 5744. Fall and Spring enrollment are averaged to reflect the academic year. Historically, Spring numbers range from 6-10% less than Fall numbers due to students studying abroad, mid-year graduation, withdrawals, etc. When the projected Spring numbers are averaged with the Fall number, the projection is 5603, which is less than the projection of 56[2]7 [sic] previously included in Appendix E to the plan.

(R. 1951.)

11. Similarly, Father Leo J. O'Donovan, S.J., then President of Georgetown University, submitted a letter to the BZA in which he again explained on behalf of the University:

> As we have indicated in our filing, the fall and spring "traditional full-time undergraduate" enrollment numbers have always been *averaged* to provide an overall academic year number. ... As we have stated on many occasions, the fall enrollment numbers are historically higher than the spring total, when many students are studying abroad. When fall and spring numbers are averaged to arrive at a final number for the 2001 academic year, we will be clearly below our current cap.

(R. 2109 (emphasis in original).)

12. The parties opposing the University's requested enrollment increase understood and acknowledged that compliance with the cap is measured by the annual average of Fall and Spring numbers. On October 22, 2000, the five party opponents filed a collective "community response" to the University's chart, and addressed enrollment, noting that "[t]he current reported enrollment, 5840 'traditional full-time undergraduates' is very high and may lead to a violation of

the 5627 FTE enrollment cap for the year...." (R. 2098 (emphasis added).) It went on to elaborate that the current enrollment "is very close to the cap and may well exceed it, depending on events in the spring," thus acknowledging the averaging method consistently employed by the University in its reports to the community working group. (R. 2105.) Therefore, the current impact of the University on the community that was evaluated in the hearings entailed a status quo traditional undergraduate enrollment of approximately 5,800 in the Fall and hundreds lower in the Spring for the two years preceding the Campus Plan hearings.

13. 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. (R. Supp. 49, R. Supp. 63-64, R. Supp. 489-490.) 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 will 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.

    (R. 1764, R. 1953-1954, R. 1958-1959, R. 2083-2084.)

14. The Board finds that new Off-Campus Student Affairs Program is reasonable as a means to lessen the incidence of serious student misconduct off-campus in the

surrounding neighborhoods.

15. The Applicant currently employs 6,727 faculty and staff on campus, but projects that the number will rise to 7,500 over the life of the campus plan. The Applicant's traffic and parking calculations were based on the projected number. (R. 443, R. Supp. 6.)

16. The Applicant's proposed Transportation Management Program ("TMP") encourages use of public transportation and the Georgetown University Transportation System ("GUTS"). (R. Supp. 17, R. Supp. 47-48, R. Supp. 99.) 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. (R. Supp. 103-105.)

17. 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 that was approved in the University's 1990 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. (R. Supp. 7, R. Supp. 20, R. Supp. 47-48, R. Supp. 50-51, R. Supp. 91-92, R. Supp. 95.)

18. The Office of Planning ("OP") recommended that the University's parking cap should remain at 4,080 spaces. (R. 2386.)

19. DPW did not recommend any increase in the parking ceiling, so as to avoid further encouraging students, faculty, and staff to drive to the campus rather than use mass transit or the University shuttle bus system. (R. 2389.)

20. 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 shares the concern of some neighbors who testified 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. (R. 1267.) For that reason, the Board initially imposed a condition (No. 15) requiring the University to provide *at least* 4,080 off-street parking spaces on campus. (R. 2343, R. 2346.) Upon a motion

for reconsideration, the Board modified Condition 15 to require the University to maintain exactly 4,080 parking spaces (with limitations on how many could be taken out of use at any given time). (R. 2420-2421, R. 2423.) The Court of Appeals' decision reasoned that the number of parking spaces required "cannot reasonably be both a maximum and a minimum." Op. at 38. Therefore, consistent with the Court's opinion, we are adopting a 4,080 parking space cap.

21. 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 projections. (R. Supp. 9-10.)

22. The Office of Planning submitted a report on June 12, 2000 ("June 12 Report") recommending approval of the campus plan application, allowing the University the full requested increase in traditional 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. (R. 431-432.)

23. OP identified the relationship between enrollment and the percentage of students housed on campus as a "major issue." OP reported that, while 77 percent of students were living on campus as of the Spring 2000 semester, students living in rented houses off-campus have been a significant community problem, especially in Burleith. (R. 434.)

24. In its supplemental report, dated July 14, 2000, OP stated its belief that the opening of the Southwest Quadrangle in 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. (R. 1151-1153.)

25. 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 2007 after 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. (R. 1154.)

26. 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. (R. 434-435, R. 1155.)

27. The Department of Public Works ("DPW") submitted a report dated June 8, 2000 addressing the transportation elements of the 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." (R. 409.) 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 Georgetown University Transportation Shuttle ("GUTS") by the University's faculty and staff, including medical staff. (*Id.*)

28. DPW reported that University-related traffic along 38th and 29th Streets adjacent to the campus is not significant to cause adverse traffic impact in the residential area. (R. 410.) 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. (R. 410-411.)

29. 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. (R. 411.)

30. 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." (R. 411.) 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.*)

31. 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. (R. 411.)

32. 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. (R. 412.)

33. 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 38t Street. (R. 413.)

34. DPW concluded that the 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. (R. 413.)

35. 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 by a vote of five to three. The ANC resolution specifically noted that, through its proposed development of the Southwest Quadrangle project, the University "will

significantly reduce the impact of off-campus student housing in neighborhoods." (R. 415.) The resolution also notes that, as a result of "facilitated meetings" involving the Applicant, the ANC, MedStar, OP and "representatives from most surrounding community groups," the University proposed to (1) delay any enrollment increase pursuant to the increase in the enrollment cap from 5,627 to 6,016, until upon occupancy of the Southwest Quadrangle; (2) "phase in any new enrollment increase in equal amounts each year following the occupancy of the SW Quadrangle," (3) "reduce the projected ten-year enrollment increase from 500 to 389," and (4) strengthen its off-campus student affairs program. ANC 2E conditioned its approval of the 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 2E therefore resolved that it supported the "University's 2000-2010 campus plan as presented" and requested that the Board afford ANC 2E "'great weight' as required by law." (R. 416.)

36. 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. (R. 2123-2125.)

37. The community association parties 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, including planned infrastructure improvements and new academic buildings. (R. 1268.) However, the community association parties stated that present University operations are objectionable to neighboring property, and the proposed plan failed to address existing impacts. Even these parties acknowledged, however, that the proposed plan was "in many ways an improvement over the present plan...." (R. 1269.) Citing a "large number of unknowns" in the planning process, the community association parties suggested approval of a five-year campus plan instead of committing to the 10-year proposed plan. (*Id.*)

38. The community association parties argued in favor of maintaining the cap on enrollment adopted by the Board in the 1990 campus plan, on grounds that large numbers of students living in the community cause a negative impact because of

behavior, housing, and other issues, and that the University's previous efforts to mitigate the impact have not solved the problem. The community association parties concluded that increasing the cap would increase objectionable conditions in the community because of numbers of students. (R. 1270-1271.) These parties did not, however quantify how the proposed increase would exacerbate existing impacts on the neighboring communities, with the kind of "reasonably detailed evidence" demonstrating "in non-conclusory terms the manner in which the retention of the cap would protected the residents of the adjoining communities," which the Court of Appeals held would be necessary to support continuation of the existing cap. *See* Op. at 25.

39. The Burleith Citizens Association ("BCA") argued in opposition to any increase in undergraduate enrollment, asserting that the 1990 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 single-family housing, trash problems, and the use of yards for parking. BCA witnesses testified about 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. (R. 1319-1322.)

40. According to the BCA, the Zoning Commission refused to "hear our case" when the BCA and other groups sought to have the neighborhood rezoned to limit the number of persons who could live in a "Group home" as a means of reducing the number of students in the area and addressing issues related to off-campus student behavior. (R. 1320.) BCA also opined that 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. (R. 1323-1324.)

41. 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. (R. 1332.)

42. 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 (R.1307-1311), but also failed to

articulate specific ways in which an increase of 389 undergraduates would increase adverse impacts, particularly when preceded by an increase of 780 additional on-campus beds for undergraduates. *See* Op. at 25.

43. 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. (R. 136-143.) 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. (R. 143, R. 1021.)

44. 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. (R. 1050-1067, R. 1109, R. 1121-1122, R. 1166-1167, R. 1204-1207, R. 1213.)

45. The Federation of Citizens Associations submitted suggestions for Board action on the proposed campus plan, including: (1) deferment of any increase in traditional 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. (R. 1742.)

46. The Board also received numerous letters in opposition to the proposed campus plan. Many residents of surrounding neighborhoods, especially Burleith, described objectionable living conditions caused by students living 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 generally stated that the University should not be permitted to increase its undergraduate enrollment until more on-campus housing was provided. (R. 1068-1095, R. 1110-1120, R. 1124-1143, R. 1160-1166, R. 1169-1176.)

47. The Board finds that a small minority of the University's undergraduate students is having an adverse impact on the surrounding neighborhood because of the frequent occurrence of serious student misconduct off campus. In making this finding, the Board gives great weight to OP's testimony that some 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, 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

The Applicant is seeking a special exception, pursuant to sections 210 and 3104 of the Zoning Regulations, for approval of an updated 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.

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 potential impacts from planned future development.

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. This criterion is essentially a proxy for density in the case of a university, and the Applicant in this case is well within the maximum FAR of 1.8 under the Zoning Regulations. Indeed, the proposed density under the Campus Plan is 1.41, or 78% of that permissible under the applicable regulation. *See* Finding No. 7 and 11 DCMR §§ 210.3, 402.4. In this case, however, the Office of Planning, the affected ANC, and parties in opposition have also asserted that the number of undergraduate students at the University's campus has created adverse impacts in the surrounding neighborhoods because of the frequent occurrence of serious student misconduct off-campus;

they also complain about the displacement of permanent, "non-student" housing as a result of the lack of sufficient on-campus housing. There was no evidence, however, that non-students would replace Georgetown students in any available housing, should the latter be forbidden to live there. More important, the Board is not empowered to allocate any particular proportion of the private housing stock in any given neighborhood to any particular class of resident. In short, this Board has no more authority to preserve housing stock for "non-students" than it does for people of a particular race or religion.

The Board concludes that approval of the 2000 campus plan must be conditioned on measures that will allow the University to improve its facilities without creating adverse impacts on neighboring property. The University has proffered a number of conditions related to student conduct by which it voluntarily agrees to be bound, which will satisfy in large measure those concerns; the Board has adopted and incorporated a number of those conditions into this Order. Moreover, 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. Specifically, the Southwest Quadrangle, which is designed to house 780 undergraduates on-campus, will by definition more than absorb an increase of 389 traditional undergraduate students. Therefore, by definition, an increase of 389 traditional undergraduates coupled with 780 new beds on campus will result in a net gain in the percentage of undergraduates living on-campus. Additionally, implementation of the University's comprehensive Off Campus Student Affairs Program can only be a positive development in terms of student conduct. The University of course cannot guarantee that these measures will effectively eliminate all adverse impacts associated with Georgetown's use of its campus, any more than any university can definitively eliminate all adverse impacts on the community from its operation. But that is not the standard by which the Board is bound. *See Citizens Ass'n of Georgetown v. D.C. Bd. of Zoning Adjustment*, 403 A.2d 737, 742 n.7 (D.C. 1979) (rejecting petitioners' suggestion that the Board should require the University to eliminate all objectionable conditions as a condition to approval of the campus plan). Rather, our goal is "'to determine whether a reasonable accommodation has been made between the University and the neighbors which does not interfere with the legitimate interests of the latter,' . . . or . . . with the legally protected interests of the former." Op. at 16, *quoting Glenbrook Road, District of Columbia Bd. of Zoning Adjustment*, 605 A.2d 22, 32 (D.C. 1992).

The Board also notes the Court of Appeals' skepticism regarding the Board's legal authority to cap a university's enrollment. The Board need not address the question of its authority in this case, however, because the University has itself proposed that it be bound by a cap, provided the cap is increased to 6,016 traditional undergraduates. The Board concludes that such an increase in enrollment will not increase the adverse impact on neighboring property. In this case the increase will be coupled with an increase in on-campus housing of nearly twice the projected number of new traditional undergraduates. Given that fact and the other conditions addressing student conduct, the Campus Plan reflects an accommodation of the community's legitimate interests and those of the University that is entirely reasonable. Additionally, to avoid any

confusion in the enforcement of this cap in further processing cases, the Board is clarifying that consistent with the evidence of record, compliance with the cap in any given year is to be measured by the average of the University's spring and fall enrollment of traditional undergraduate students. Because the University's enrollment figures have historically been calculated in this manner (*see* FOF No. 11), allowing an increase in the cap without permitting the University to continue to assess compliance by averaging would effectively freeze (or permit only a small fraction of the contemplated increase in) the University's undergraduate enrollment, an action which the Court of Appeals has already concluded is not supported by substantial evidence in the record. *See* Op. at 25.

Although the Board heard substantial, persuasive testimony describing adverse impacts on the surrounding neighborhoods resulting from the presence of undergraduate students living in those neighborhoods, that adverse impact was created by a minority of students living off-campus and a small fraction of the University population. The adverse impact has several causes, including not only incidences of student misconduct, but also the failure of landlords to ensure that their properties are adequately maintained and occupied legally, which the Board recognizes are beyond the University's – and the Board's – control.

The Board recognizes too that off-campus student conduct, like the conduct of any other citizen of the District of Columbia, is a matter that rightfully falls within the jurisdiction of the Metropolitan Police Department. The University has, however, acknowledged a substantial educational role in attempting to guide the conduct of its students when they are living off campus. It has therefore volunteered specific policies established in the new Off-Campus Student Affairs program, which the Board concludes 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 has adopted a number of these policies as conditions on Campus Plan approval. With the addition of these conditions specified in this Order, the Board is persuaded that the off-campus student conduct program is sufficiently comprehensive to ensure that the students will be fully 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. Although some of the neighborhood groups sought to impose stricter or more intrusive measures relating to student conduct, the Board does not attempt to craft additional conditions that mandate the minutiae of the University's disciplinary system because, as the Court of Appeals has noted, such matters are "far removed from [the Board's] expertise and area of responsibility." Op. at 30. 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.

The Board is not persuaded that OP's proposal to limit the number of undergraduate students living in Zip Code 20007 is necessary or appropriate. As OP itself notes, completion of the Southwest Quadrangle is likely to greatly lessen the impacts of undergraduate students on adjacent neighborhoods. The Board in any event has concerns about whether OP's

recommendation is consistent with the District of Columbia Human Rights Act, D.C. Code § 1-2501, *et seq.* The Board notes that in 1998 the Zoning Commission declined to adopt zoning amendments designed to limit the number of students living in these very neighborhoods because of concerns that basing a zoning decision on such a goal would violate the DC Human Rights Act and, moreover, the goal was not a legitimate land use objective. (Z.C. Order No. 836 at 2, 5, R. 1260, 1263.) There, the petitioning neighborhood groups voiced the same complaints about "growing loss of residential character," overcrowding, trash and noise as a result of students living off-campus as they made to the Board in this case. (*Id.* at 3, R. 1261.) Indeed, citizens in this proceeding recounted their unsuccessful efforts to obtain the rezoning in discussing the community's "diligen[ce] in pursuing avenues of recourse to mitigate the impact of students in the community." (R. 1320.) In connection with that Zoning Commission proceeding, OP requested an opinion regarding the legal validity of the proposed overlay, specifically whether it would violate the DCHRA. The Office of Corporation Counsel responded that, because the proposal was obviously intended to "reduce the number of Georgetown University students renting property in the affected neighborhoods," the proposal might run afoul of the DCHRA due to its unlawful purpose. (R. 1251-1258.) The Zoning Commission denied the petition, concluding that: "the Overlay targeted a protected class, Georgetown students. It is discriminatory to the students, may impose a barrier to elimination of discrimination in housing, and may be inconsistent with the Comprehensive Plan and the Fair Housing Act." (Zoning Commission Order No. 836 at 5, R. 1263.) The Commission also concluded that the concerns voiced in the Petition regarding student misconduct were "neither zoning nor land-use issues" and "cannot be addressed by zoning or other land-use techniques." *Id.* at 5. (R. 1263.) Finally, it concluded, the Commission "doubt[ed] the legality of solving an enforcement problem with zoning." *Id.*

This Board agrees that zoning restrictions should never be imposed where the purpose, express or implied, is to limit the number of any particular kind of person living in a neighborhood. Conditions can and should be crafted to deal with the externalities associated with certain uses of land, such as noise, traffic, density, or parking, as the Board has done in this case, but they should not target a particular class of persons. Therefore, no land use regulation should be crafted with the objective of limiting the number of students who live in a certain neighborhood any more than they should be crafted to limit the number of teachers, nurses, doctors or lawyers. Land use decisions must be made based on the use of the land, not upon the occupation, gender, race or religion of the occupants of that land. Moreover, even apart from these serious concerns, it is unclear how the OP-proposed limit would be implemented and enforced, other than through a reliance on "monitoring of the housing situation." The Board believes that the conditions adopted as part of this Order, especially the greater emphasis on off-campus student conduct, address the concerns raised by OP with regard to neighborhoods bordering on the campus and will adequately ensure that the University will not create objectionable impacts in those neighborhoods.

The Board notes that the 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. The Board concludes that the previously approved campus plan boundaries remain reasonable and should be adopted for purposes of the 2000 campus plan.

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. 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, and the Board continues that cap. Despite measures such as the TMP and restrictions on the use of University facilities to university-related uses, the Board nevertheless remains 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. In deference to the concerns expressed by some community members regarding the parking pressure on the surrounding neighborhoods, the Board would entertain an application to increase the cap on the University's on-campus parking if it can be established that any increase in traffic as a result of additional on-campus parking would be offset by a concomitant amelioration of the availability of street parking in the surrounding community.

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 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.

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 on their constituents. The ANC adopted a resolution in support of the proposed campus plan and supported the University's requested increase in traditional undergraduate enrollment subject to conditions designed to minimize the potential adverse impact of the University on surrounding residential neighborhoods.

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

1. The Applicant'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.

2. The Applicant shall not increase undergraduate enrollment above a cap of 6,016. This cap shall apply to "traditional undergraduate students" who are defined to exclude "students of English as a second language, part-time students, commuters and other students not requiring University housing." Compliance with the cap shall be measured by determining enrollment of such students on an annual basis by averaging the fall and spring traditional undergraduate enrollment numbers.

[The Court articulated skepticism as to the Board's legal authority to cap a university's enrollment. In this case, however, it elected not to decide that question because the University itself volunteered to continue to be bound by a cap, provided it was increased by 389 to 6,016. The Court also concluded that "the record lacks substantial evidence supporting the BZA's freeze of the University's enrollment." Op. at 27. Therefore, no increase in the enrollment cap would contradict the Court's opinion. There is no basis in the record that would support any level of increase different from that volunteered by the University and endorsed by the ANC. This Condition flows rationally from the Conclusions of Law at pp. 14-16. The condition also includes language that tracks the definition of "traditional undergraduate" from Finding of Fact No. 8, to avoid any potential ambiguity in its application. Additionally, the condition adds language to clarify that the enforcement is to be measured, as it historically has been, by averaging the spring and fall numbers. This clarification flows rationally from Findings of Fact No. 10-12.]

3. The 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.

   (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) The Off-Campus Student Affairs Program shall specify the measures that University personnel shall undertake, immediately upon receiving a complaint regarding student misconduct, to resolve any objectionable behavior pending the University's investigation of a complaint.

[Former Condition 3(c) must be omitted because the Court determined the subject matter to be outside the scope of the BZA's authority and struck down the condition (Op. at 34, n.22 (this is a matter that "the University, and not the BZA, should decide").]

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

   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.

   [Former Condition 4(b) must be omitted because the Court determined the subject matter to be outside the scope of the BZA's authority and struck down the condition (Op. at 34, n.22 (this is a matter that "the University, and not the BZA, should decide").]

   [Former Condition 5 must be omitted because the Court determined the subject matter to be outside the scope of the BZA's authority and struck down the condition (Op. at 34, n.22 (this is a matter that "the University, and not the BZA, should decide").]

   [Former Condition 6 must be omitted because the Court determined the condition to be "unrelated to the BZA's expertise" and struck down the condition (Op. at 31).]

5. If the Applicant's Department of Public Safety receives evidence of a violation of sanitation or housing regulations involving or affecting students living in an off-campus residence, it shall, to the extent permitted by law, report the violation to the housing provider, the Department of Consumer and Regulatory Affairs, Department of Public Works, or other agency as appropriate.

   [The Court held that it could not sustain this condition (former Condition 7) as written, and held that the requirement that the University monitor enforcement

of various District regulations was "far beyond what can reasonably be imposed on a private institution." (Op. at 32.) Therefore, that aspect of Condition 7 must be eliminated. With respect to the federal privacy issues under "FERPA," the federal Family Educational Rights and Privacy Act, which Georgetown had highlighted regarding the balance of Condition 7, the Court suggested that on remand, the Board might attempt to fashion a remedy that would be substantially as effective as Condition 7 without the potential of violating FERPA, and that the parties could be heard on this legal issue. (Op. at 32-33, n. 21.) The University's proposed modification would satisfy the BZA's apparent interest in reporting without impinging on the University's FERPA obligations. External complaints made to the University's Department of Public Safety ("DPS"), its law enforcement unit, are generally not protected from disclosure under FERPA. DPS is the logical recipient of such complaints and, consistent with the logic and spirit of the prior Order, currently does refer such complaints to the appropriate District enforcement agencies. The proposed modification captures that reality, while also responding to the University's legitimate concern that the condition as previously framed could be construed to require the disclosure of protected student information by non-law enforcement employees in violation of federal law.]

[*Former Condition 8 must be omitted because the Court determined the condition to be an "extraordinary intrusion into the University's disciplinary procedures…[which] substituted the Board's view for the University's on a matter of educational policy far removed from zoning considerations," (Op. at 33).*]

6. The Applicant shall make publicly available data indicating the number and types of complaints received concerning student misconduct, and the outcome of each complaint, including whether sanctions were imposed and whether any fines paid. 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.

[*Former Condition 10 must be omitted because the Court determined that it implicates a balancing of competing considerations regarding student privacy and interests of safety and discipline which is "a responsibility more appropriately left to the University than to the BZA," (Op. at 34).*]

7. The Applicant shall avoid scheduling events that attract large numbers of visitors

to the campus during the peak traffic times of 7 a.m. to 9 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.

8. 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.

9. 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 necessary associated with its use, to ANC 2E, the Alliance for Local Living, and other community organizations that request the information.

10. The Applicant shall direct its students to register their vehicles in the District of Columbia if required under District law, or obtain a reciprocity sticker, if eligible to do so. Failure to abide by District law concerning registration of student vehicles shall constitute a violation of the Code of Student Conduct.

[During the course of the appeal, the DMV opined that former Condition 14's requirement that the University "consult" with the DMV regarding the license plate information it had collected would not be a useful enforcement tool for a variety of reasons. The Court therefore identified the "consultation" aspect of this condition as moot. Moreover, because the collection of information provision was apparently intended only to gather the information necessary to provide to the DMV under the now moot consultation requirement, the Court also noted that the BZA "may wish to take a fresh look at [the collection of information] provision to determine whether it is likely to accomplish what it was apparently designed to achieve." (Op. at 38-39.) In any event, there is no basis in the record to support a requirement that the University expend the considerable resources to collect this information, given the lack of any requirement that it be communicated to the DMV. The University will, of course, continue to educate its students regarding compliance with the District's motor vehicle laws,

including a provision in its Code of Student Conduct providing that failure to abide by District law regarding registration of one's vehicle is a violation of the Code. As to the requirement that the University require all students to register their vehicles in the District, however, this provision is clarified to reflect that it is necessarily be limited to situations where the student would be required to do so under District law. Many students live outside the District and could not legally register their vehicles in the District. As to the withholding of parking privileges for students who fail to register their vehicles in the District, this provision would be extremely cumbersome to monitor, and also relatively meaningless as Georgetown does not generally provide parking privileges to its undergraduates. Georgetown suggests that it be eliminated as well as it does not logically flow from any findings of fact or conclusions of law.]

11. The Applicant shall maintain a parking inventory of no more than 4,080 off-street parking spaces within the campus boundary.

[Reasoning that the specified number of parking spaces could not be intended as both a maximum and a minimum, the Court remanded this condition (former Condition 15) for clarification. (Op. at 38.) The Court also noted that the requirement that not more than one percent of the inventory be out of service at any one time suggested a floor rather than a cap in parking. Id. Under the Court's logic, such a provision would be appropriate if the condition were, as originally framed, a floor on the number of parking spaces provided. In order to implement the Court's directive, and make the condition only a cap, the limitation must also be removed; otherwise, the condition is effectively both a maximum and a minimum.]

12. 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.

13. The Applicant shall include, in all future applications for further processing of the campus plan, the following information:

a) most recent annual enrollment of traditional undergraduate students, as defined herein, 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 uses as an undergraduate dormitory;

c) a progress report on the implementation and operation of 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;

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.

14. The Applicant shall prepare a revised campus plan that is consistent with this Order, accompanied by a table of changes that lists each change. The Applicant 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, and shall, on the same day, serve a copy of the revised plan and table of changes on each party to this proceeding. Each party shall have 30 days in which to submit to the Board, and to serve on all other parties, its comments on the Applicant's proposed changes. Comments on the revisions shall be strictly limited to whether the revisions correctly and clearly reflect the Order. After review of the Applicant's proposed revised plan and the parties' comments, the Board shall determine whether further proceedings are warranted or shall certify the revised plan as the approved campus plan. The revised plan shall be deemed approved 60 days after submission, absent action by the Board before that date. Copies of the approved plan shall be maintained in the Office of Zoning and the Office of the Zoning Administrator.

15. 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 14 set

forth in this Order. 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 approved under this plan, 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: ___

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

Each concurring member has approved the issuance of this Order.

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director

Final Date of Order:_____

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING 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 ISSUES 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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

BZA APPLICATION NO. 16566-E

As Director of the Office of Zoning, I hereby certify and attest that on _____ a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party who appeared and participated in the public hearing concerning the matter, and who is listed below:

Maureen E. Dwyer, Esquire
Shaw Pittman LLP
2300 N Street, N.W.
Washington, D.C. 20037-1128

Peter Pulsifer, Chairperson
Advisory Neighborhood Commission 2E
Saint John's Episcopal Church
3265 S Street, N.W.
Washington, D.C. 20007

Scott Anderson, General Manager
Hillandale Homeowners Association
3939 Hillandale Court, N.W.
Washington, D.C. 20007

Charles r. Braum
Hillandale Homeowners Association
4030 Chancery Court, N.W.
Washington, D.C. 20007-2144

Barbara B. Downs, President
Citizens Association in Georgetown
3222 N Street, N.W.
Washington, D.C. 20007

Patricia Scolaro, President
Burleith Citizens Association
1807 37th Street, N.W.
Washington, D.C. 20007

BZA APPLICATION NO. 16566-E

Georgetown Residents Alliance
Don W. Crockett, Esquire, Chairman
3070 Q Street, N.W.
Washington, D.C. 20007

R.D. Andrew, President
Foxhall Community Citizens Association
1413 Foxhall Road, N.W.
Washington, D.C. 20007

Stephen A. Hopkins, President
Cloisters in Georgetown Homeowners' Association, Inc.
3524 Reservoir Road, N.W.
Washington, D.C. 20007

Michael Johnson, Zoning Administrator
Dept. of Consumer and Regulatory Affairs
Building and Land Regulation Administration
941 North Capitol Street, N.E., Suite 2000
Washington, D.C. 20009

Kenneth G. Laden, Administrator
District Division of Transportation
Department of Public Works
2000 14th Street, N.W.
Washington, D.C. 20009

Ellen McCarthy
Office of Planning
801 North Capitol Street, N.E.
4th Floor
Washington, D.C. 20002

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director, Office of Zoning

Certificate of Service

I hereby certify that on December 23, 2004 a copy of the foregoing document was sent via hand delivery or first-class mail to the following parties:

Tom Birch, Chairperson
Advisory Neighborhood Commission 2E
Saint John's Episcopal Church
3265 S Street, N.W.
Washington, D.C. 20007

Scott Anderson, General Manager
Hillandale Homeowners Association
3939 Hillandale Court, N.W.
Washington, D.C. 20007

Charles R. Braum
Hillandale Homeowners Association
P.O. Box 1035
Berkeley Springs, WV 25411-3035
(via first-class mail)

Richard B. Nettler
Robins, Kaplan, Miller & Ciresi LLP
1801 K Street, N.W.
Suite 1200
Washington, D.C. 20006

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Patricia Scolaro, President
Burleith Citizens Association
1807 37th Street, N.W.
Washington, D.C. 20007

Barbara B. Downs, President
Citizens Association in Georgetown
~~3222 N Street, N.W.~~ 1355 Wisconsin, NW
Washington, D.C. 20007

R.D. Andrew, President
Foxhall Community Citizens Association
1413 Foxhall Road, N.W.
Washington, D.C. 20007

Georgetown Residents Alliance
Don W. Crockett, Esquire, Chairman
3070 Q Street, N.W.
Washington, D.C. 20007

Toye Bello, Zoning Administrator
Department of Consumer & Regulatory Affairs
Building and Land Regulation Administration
941 North Capitol Street, N.E., Suite 2000
Washington, D.C. 20009

Stephen A. Hopkins, President
Cloisters In Georgetown Homeowners' Association, Inc.
3524 Reservoir Road, N.W.
Washington, D.C. 20007

Ellen McCarthy
Office of Planning
801 North Capitol Street, N.E.
4th Floor
Washington, D.C. 20002

Kenneth G. Laden, Administrator
District Division of Transportation
Department of Public Works
2000 14th Street, N.W.
Washington, D.C. 20009

Alan Bergstein, Esq.
Office of Corporation Counsel
441 4th Street, N.W., 6th Floor
Washington, D.C. 20001

Maureen E. Dwyer

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16566-E of the President and Directors of Georgetown College, pursuant to 11 DCMR § 3104.1, for a special exception for the review and approval of the University Campus Plan – years 2000-2010 under Section 210 in the R-3 and C-1 Districts at premises bounded by Glover Archbold Parkway to the west, the National Park Service property along the Chesapeake & Ohio Canal and Canal Road to the south, 35th Street, N Street to 36th Street, and 36th Street to P Street to the east and Reservoir Road to the north. (Square 1222, Lots 62, 801-810; Square 1223, Lots 85-86, 807-810, 812, 815, 826, 827, 831, 834, 846-847, 852-853, 855, and 857-858; Square 1226, Lots 91, 94-101, 104-105, 803-804, 806, and 811-815; Square 1248, Lots 122-125, 150-157, 800-802, 804-806, 829-831, and 834-835; Square 1321, Lots 815-817.)

HEARING DATES: June 13, and July 18, 2000

DECISION DATES September 5, November 8, and December 5, 2000

ORDER DATE: March 29, 2001

RECONSIDERATION DECISION DATE: June 5, 2001

STAY DECISION DATE: September 4, 2001

CERTIFICATION DECISION DATE: March 5, 2002

DC COURT OF APPEALS DECISION DATE: December 4, 2003

PROCEDURAL ORDER ON REMAND: October 15, 2004

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ORDER ON REMAND

The Applicant in this case is the President and Directors of Georgetown College (hereinafter "University" or "Applicant"), as owner of its campus, described above. The University filed an application with the Board of Zoning Adjustment on January 31, 2000, for special exception under 11 DCMR § 3104.1 to approve its 2000-2010 campus plan for its campus property, which is located in the R-3 and C-1 Districts. Following a public hearing, the Board voted 4-0-1, to approve the application, subject to various conditions, which were subsequently, on June 5, 2001, modified slightly on reconsideration. By decision dated December 4, 2003 ("Op."), the District of Columbia Court of Appeals vacated the Order, struck down a number of the conditions, and provided guidance for the elimination or modification of other conditions. This Order on Remand implements the Court's mandate.