BZA 16566-F

District of Columbia Court of Appeals
500 Indiana Avenue, N.W.
Washington, D.C. 20001

GARLAND F. PINKSTON
CLERK OF COURT

Telephone: 879-2700
Area Code 202

July 6, 2005

05-AA-688 Citizens Association of Georgetown vs. D.C. Board of Zoning Adjustment

District of Columbia Zoning Adjustment
Jerrily Kress, Director
441 4th Street, N.W.
Suite 210S
Washington, D.C. 20001

Dear Sir/Madam:

Pursuant to the rules of this Court I am transmitting, herewith, a copy of the petition for review filed July 5, 2005, in the above-entitled case.

Yours very truly,

Garland F. Pinkston
Clerk of Court

By: Ruth Hewett
Information Center Supervisor

cc: Edward Schwab, Esq.

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 16566
EXHIBIT NO. 297

Board of Zoning Adjustment
District of Columbia
CASE NO.16566
EXHIBIT NO.297

RECEIVED
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DISTRICT OF COLUMBIA COURT OF APPEALS

FILED
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DISTRICT OF COLUMBIA COURT OF APPEALS
PETITION FOR REVIEW

Appeal No. 05-AA-688

Citizens Association of Georgetown, Petitioner	
v.	Application No. 16566-F
District of Columbia Board of Zoning Adjustment, Respondent	

The Citizens Association of Georgetown seeks review by the District of Columbia Court of Appeals of the attached Order No. 16566-F of the Board of Zoning Adjustment entered on the 7th day of June, 2005.

Names, addresses, and telephone numbers of all other parties and their counsel who appeared in the agency:

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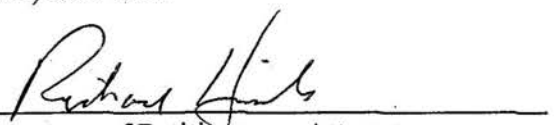
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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16566-F 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, 2000 and July 18, 2000

DECISION DATES: September 5, November 8, and December 5, 2000; April 5, 2005

CORRECTED ORDER ON REMAND

Note: This order corrects Order No. 16566-E, by adding the underlined text to Conclusion section Condition No. 2.

PRELIMINARY MATTERS:

On January 31, 2000, the President and Directors of Georgetown College (hereinafter "University" or "Applicant") filed an application for review and approval of the Georgetown University Campus Plan for Years 2000-2010. Following a public hearing, the Board voted to approve the campus plan subject to conditions. An order reflecting that decision was issued March 29, 2001 ("March 29 Order"). The Board subsequently revised some of the conditions of approval in an order on reconsideration issued August 6, 2001 (Order No. 16566-A). The Applicant requested an order staying the enforcement of certain conditions; that motion was denied by order issued January 10, 2002 (Order No. 16566-B). The Board certified the Applicant's 2000 campus plan, as revised to reflect the conditions of approval, by order issued May 22, 2002 (Order No. 16566-C).

The Applicant appealed the March 29 Order and the order on reconsideration to the District of Columbia Court of Appeals. By order issued December 4, 2003, the Court of Appeals vacated the Board's decision and remanded the case for further proceedings. *See*

President and Directors of Georgetown College v. District of Columbia Board of Zoning Adjustment, 837 A.2d 58 (D.C. 2003).

At a public meeting on June 22, 2004, the Board indicated its intent to conduct further proceedings on the application, and requested submissions from the parties recommending issues they believed should be addressed on remand. Submissions were received from the Applicant and two parties in opposition, Citizens Association of Georgetown and Hillandale Homeowners Association.

By order issued October 15, 2004, the Board directed any party that wished to do so to submit a proposed order either granting or denying the application in whole or in part, including findings of fact, conclusions of law, and any proposed conditions necessary to mitigate potential adverse impacts identified based on the existing record in this proceeding (Order No. 16566-D). Proposed orders were submitted by the Applicant, Citizens Association of Georgetown, and Hillandale Homeowners Association. At a public meeting on April 5, 2005, the Board voted to approve the application subject to conditions.

Other than the submissions filed by the Parties after remand, the Board's decision was based exclusively upon the record as it existed on March 29, 2001. References in this order to District agencies and officials are based upon their status at that time. Thus, although the transportation responsibilities of DPW were subsequently transferred to the District Department of Transportation, the views remain attributable to DPW. Similarly, the Board's decision to approve the Campus Plan and the requested enrollment increase are based upon the facts existing in 2001 and what would be reasonable to predict based upon those facts.

Application. The Applicant filed an application pursuant to 11 DCMR § 3104 for a special exception under 11 DCMR § 210 for approval of the University Campus Plan – years 2000-2010 for its campus in Georgetown, located in the R-3 and C-1 districts. The zoning relief requested in this application was self-certified pursuant to 11 DCMR § 3113.2.

Notice of Application and Notice of Public Hearing. By memoranda dated February 4, 2000, the Office of Zoning sent notice of the application to the Office of Planning; the Department of Public Works; the Zoning Administrator; and Advisory Neighborhood Commission ("ANC") 2E, the ANC for the area within which the subject property is located.

The public hearing on the application was originally scheduled for May 16, 2000 and June 13, 2000. Pursuant to 11 DCMR § 3113.13, the Office of Zoning on March 23, 2000 mailed notice of the hearing to the Applicant, the owners of property within 200

feet of the subject property, and ANC 2E. Notice was also published in the D.C. Register (47 *D.C.R.* 2169).

By letter dated April 25, 2000, the Applicant agreed to a one-month postponement of the hearing sought by five community organizations representing residents of neighborhoods surrounding the University's campus for purposes of a mediation effort intended to resolve issues raised by the Applicant's proposed campus plan. 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, and subsequently amended its proposed plan.

The public hearing was held June 13, 2000 and July 18, 2000. Notice of the continued hearing was published in the D.C. Register (47 *D.C.R.* 4387).

Requests for Party Status. ANC 2E was automatically a party in this proceeding. The Board received requests for party status from the Burleith Citizens Association, 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.

Applicant's Case. The Applicant presented evidence and testimony from Leo J. O'Donovan, president of the University; Dorothy M. Brown, chief academic officer; Alan Brangman, the University's architect and director of facilities planning, who was recognized by the Board as an expert in architecture; Linda Greenan, assistant vice president for external relations; Jeanne Lord, the assistant dean of students, who heads the Applicant's off-campus student affairs program; John Green, senior vice president of MedStar Health, a nonprofit health-care organization that operates the University's hospital; Louis Slade, a principal with Gorove Slade Associates recognized by the Board as an expert in traffic and parking; Karen Frank, executive director of University Facilities and Student Housing; and Lewis Bolan, president of Bolan Smart Associates, a real estate and economic consulting firm and recognized by the Board as an expert real estate economics.

The Applicant described the proposed 2000 Campus Plan as an update of prior plans approved by the Board. Among other things, the proposed plan was designed to provide adequate space for existing and future university programs, and to reorient the campus to traditional design principles that would create a pedestrian-friendly campus with more open space for student activities and rational vehicular circulation. The Applicant's proposal initially projected an increase of 500 students in undergraduate enrollment (*i.e.*

an increase in the cap on the number of undergraduate students from 5,627 to 6,127), construction of four new buildings and renovations or additions to six existing buildings, and design changes to improve pedestrian circulation on the campus.

After the mediation process in May 2000, the Applicant amended its proposed plan by (1) reducing the requested increase in undergraduate enrollment to 389, for a new maximum of 6,016 undergraduate students;[1] (2) proposing to delay any increase in undergraduate enrollment above the existing current cap of 5,627 students until after the Southwest Quadrangle project (a planned 780-bed residence hall on campus)[2] was occupied or until Fall 2003; (3) strengthening the University's off-campus student affairs program; and (4) providing the Board with progress reports in every future application for further processing.

Government Reports. The Office of Planning ("OP") submitted reports dated June 12, 2000 and July 14, 2000. OP concluded that the Applicant's proposed 2000 campus plan "basically meets the test of the zoning regulations, except that additional measures are needed to address the issue of possible impacts resulting from additional undergraduate enrollment." OP expressed concern that the future increase in undergraduate enrollment, without any additional on-campus housing, "could mean continuing negative impacts on nearby neighborhoods."

OP recommended approval of the application with an increase in undergraduate enrollment of 389 students, subject to conditions related to housing and enrollment. OP suggested a "formula" approach to future increases in undergraduate enrollment that would require the University to take certain actions to address impacts if the number of students living off campus in ZIP Code 20007 (*i.e.* the residential neighborhoods in the vicinity of the campus) exceeded a specific percentage. According to OP, the impacts could be mitigated by measures possibly including (a) providing more student housing on-campus, (b) providing student housing elsewhere (*i.e.* outside ZIP Code 20007 as well as outside other areas affected by other universities), and (c) undertaking an increased off-campus student program.

In its supplemental report, the Office of Planning elaborated on its "formula" approach and proposed that the University should be required to take certain action if more than

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[1] The Applicant initially sought to increase the cap on undergraduate enrollment by 500 students, from 5,627 to a maximum of 6,127 undergraduates. The proposed increase was subsequently reduced by 111 students to 389, for a proposed new cap of 6,016. The revised request represented an increase of 500 students over the Applicant's then enrollment of 5,516.

[2] The Applicant's prior campus plan anticipated construction of a new dormitory to create 500 new beds. *See* BZA Application No. 15302, Order issued October 12, 1990, at 12. By order issued June 10, 1999 in Application No. 16427, the Board granted, subject to conditions, the University's application under the approved campus plan to construct the residence hall and related facilities.

700 undergraduate students were living within ZIP Code 20007 after the 2003-2004 academic year. According to OP, "[i]f undergraduate numbers began to approach [700], it would be an indication that a problem situation was developing." OP stated that if the number of undergraduate students living within the 20007 ZIP Code exceeded 700 after Fall 2003, the University could provide additional student housing on-campus, provide student housing elsewhere, provide incentives for students to live outside the boundaries of 20007, or postpone any increase in its undergraduate enrollment until number of undergraduate students living in 20007 decreased below 700.

OP recognized the relationship between enrollment and the percentage of students housed on-campus as a "major issue," particularly with respect to undergraduate students, noting that "students living in rented houses off-campus have been a significant community problem, especially in Burleith." According to OP, some students living in neighborhoods adjacent to the University, often in group houses, "create objectionable impacts on those neighborhoods because of noise, parked cars, trash, conversion of back yards to parking, etc." According to OP, "[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." However, OP also noted that the "impact of undergraduate students on adjacent neighborhoods should greatly decrease when the Southwest Quadrangle opens in 2003."

By memorandum dated June 8, 2000, the Office of Intermodal Planning of the Department of Public Works ("DPW") reviewed the transportation impacts of the Applicant's proposed 2000 campus plan, particularly with respect to efforts to minimize the impact of traffic generated by the University, traffic circulation and level of service, and parking facilities. In assessing the potential traffic and parking impacts of the University's proposed campus plan, DPW considered especially the Applicant's projected student populations; the faculty and staff population, including the medical center staff; and existing conditions in the neighborhoods in the vicinity of the campus. In preparing its comments, DPW also reviewed a report by a traffic consultant retained by Hillandale Homeowners Association.

DPW concluded that the proposed campus plan would result in an increase in traffic generation at both the northern and southern entrances to the campus, but that much of the increase would be spread throughout the day and therefore would not significantly affect peak-hour traffic congestion. DPW stated that "Reservoir Road suffers from traffic congestion, especially during the morning and evening peak hours, which severely affects local residents' ability to access Reservoir Road." DPW was investigating alternative traffic management strategies designed to reduce overall congestion on Reservoir Road in cooperation with the University, the University's medical center, and local residents.

DPW encouraged the Applicant to increase its efforts to encourage graduate students, faculty, and staff to use non-vehicular modes of travel as much as possible to avoid overall congestion. DPW commented favorably on the Applicant's plans to increase the percentage of undergraduate students living on campus as an effective means to reduce university-related traffic on local streets, and encouraged the Applicant to continue its efforts to promote the use of mass transit and its shuttle bus service, especially by faculty and staff.

The Board heard testimony from Lieutenant Patrick Burke, currently the Metropolitan Police Department's traffic coordinator and formerly assigned to the district encompassing the campus and surrounding neighborhoods, concerning the police interaction with the University. Lieutenant Burke testified that concerns in communities near the campus pertained to quality-of-life issues and "stemmed around students living off campus, noise, and related issues." He acknowledged that "problems" with "a number of houses" occupied by students have a negative impact on the affected neighborhoods, but commented favorably on the University's efforts to improve conditions associated with students living off-campus.

ANC Report. At a special public meeting held June 6, 2000, with a quorum present, ANC 2E voted 5-3 to adopt a resolution in support of the Applicant's 2000 Campus Plan. The resolution noted that the University "has developed plans to house a substantial number of undergraduate students through the construction of a new 780-bed dormitory, the Southwest Quadrangle, and in doing so, will significantly reduce the impact of off-campus housing in nearby neighborhoods." ANC 2E also noted the Applicant's intentions to phase in an increase in its enrollment cap from 5,627 to 6,016 upon completion of the Southwest Quadrangle, maintain on-campus housing for at least 85 percent of the undergraduate student population, and reduce off-campus housing demands by students in neighborhoods near the campus. ANC 2E conditioned its approval of the proposed campus plan "by urging that measures be taken to strengthen the off campus affairs program."

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 bore primary responsibility for educating its students and ensuring that they adhered to community standards and the laws of the District of Columbia. ANC 2E 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 the ANC's regularly scheduled meeting of October 30, 2000, which was duly noticed and at which all members were present.

Persons in Support. The Board received letters or heard testimony from approximately 30 persons, businesses, or organizations in support of the application. Persons in support of the application generally cited the University's commitment to on-campus housing, its efforts to address community concerns, volunteer activities undertaken by students, assistance provided by the University to community organizations, and the advantages of living near the University, including the proximity to students whose foot traffic through the neighborhood created a sense of security for pedestrians.

Parties in Opposition. The neighborhood associations collectively testified and presented evidence in opposition to the Applicant's proposal. The parties in opposition indicated their general support for most of the goals of the Applicant's proposed 2000 campus plan but expressed concern about some current, and potentially future, operations of the University that are objectionable to neighboring property. 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.

The parties in opposition urged the Board to maintain the Applicant's existing cap on undergraduate enrollment, asserting that "large numbers of students in the community cause a negative impact, because of behavior, housing and other issues" and that the University's efforts to mitigate the impact have not solved the problem. According to the parties in opposition, increasing the cap on the number of students enrolled in the University without additional increases in on-campus housing would increase objectionable impacts in the community, in part because the University's assertion that completion of the Southwest Quadrangle project would diminish the number of students living in the community was a "fallacy" or a "matter of conjecture." The parties in opposition contended that the University's current level of enrollment created objectionable conditions in the surrounding neighborhoods associated with students living in group houses, including deleterious impacts on the housing stock and the historic character of the neighborhoods due to the transient nature of student residents; overcrowding of numerous students in relatively small single-family dwellings; accumulations of trash that contribute to infestations of rats; and behavior problems, particularly pertaining to noise and late-night parties.

With respect to traffic, the parties in opposition expressed concern about whether proposed development of the medical center portion of the campus would exacerbate existing flow problems on Reservoir Road, and about whether new facilities on the southern portion of the campus would also create adverse traffic impacts. The parties in opposition also questioned whether the on-campus supply of parking would be adequate after completion of the new construction and expansion of existing buildings projected in the Applicant's proposed 2000 campus plan. Hillandale Homeowners Association provided testimony from Joseph Cutro, P.E., who was recognized by the Board as a traffic expert. The witness questioned certain conclusions reached by the Applicant's

traffic expert, and disputed the Applicant's assertion that the projected changes to the medical center operations in the north campus would have no impact on traffic or parking.

Persons in Opposition. The Board received numerous letters or heard testimony in opposition to the application from approximately 45 persons and from the Federation of Citizens Associations. The persons in opposition, many residents of neighborhoods near the campus, generally opposed any increase in student enrollment without an increase in the supply of on-campus housing, asserting that the university use currently created adverse impacts on neighboring property through objectionable conditions associated with students living off-campus. The persons in opposition cited changes in the character of the neighborhood as students replaced the permanent resident population; overcrowding of students living in or visiting group houses; frequent loud noise, particularly late at night; disorderly behavior; objectionable traffic and parking conditions; litter, including improper disposal of bulk trash; and the lack of an effective response from the University to complaints from neighborhood residents.

FINDINGS OF FACT

The subject property

1. The Georgetown University campus, known as 3800 Reservoir Road, N.W., comprises 104 acres located in the Georgetown neighborhood of Ward 2. 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.

2. The campus is zoned primarily R-3 (with a small portion zoned C-1), and is located within the Georgetown Historic District.

3. The University has been located on its present campus since its founding in 1789. With certain exceptions, the campus boundaries include land owned by the University that has been actively devoted to university use for over 200 years. 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.

4. The University 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.

5. The Applicant testified that the licensed capacity of the hospital – 535 beds – would not change, but that the number of employees might increase consistent with an increase in in-patient admissions. The Applicant projected an increase in admissions to approximately 18,000 per year, up from 13,000. The hospital currently has a staff of 2,600 full-time equivalent employees.

6. 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 proposed campus plan. The Applicant's traffic and parking calculations were based on the projected number.

Proposed 2000 Campus Plan

7. 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.

8. The Applicant's 2000 campus plan proposes a total of approximately 1.3 million square feet of new construction: approximately 740,000 square feet devoted to academic/administrative space; 432,000 square feet devoted to medical/health care space; and 88,500 square feet devoted to residential/campus life/athletic space. The planned new developments on campus include 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 Gymnasium to allow its use as a convocation center.

9. Including the planned new construction, the total gross floor area of buildings on campus would be approximately 6.2 million square feet. The proposed additional gross footage and existing square footage would result in a floor area ratio (FAR) of 1.41, or 0.39 below the 1.8 FAR permitted by the Zoning Regulations. Lot occupancy would be 36 percent.

Noise

10. The Applicant's proposed campus plan will minimize any adverse noise impacts associated with the university use on the subject property through measures including the location of on-campus student residences away from residential neighborhoods abutting the campus, installation of landscape buffers and new construction that will mitigate noise from outdoor events on campus, and implementation of new policies by the University to regulate noise generated by campus activities and to address noise impacts associated with students living off-campus.

11. The University's medical center contains a helicopter pad. The Applicant testified that helicopters, used exclusively for medical purposes, made approximately eight trips per week to and from the campus, and projected that the number of trips would likely increase to no more than 12 flights per week with increased utilization of the hospital.

12. The Board credits the testimony of the Office of Planning that "the University has made sufficient proposals to address the noise issue."

13. The Board finds that approval of the Applicant's proposed campus plan is not likely to create conditions objectionable to neighboring property because of noise.

Traffic

14. The campus is served by streets including Reservoir Road, a minor arterial street adjacent to the campus on the north; Canal Road, a principal arterial on the south; and several local residential streets on the east side of campus, such as Prospect, 36th, 37th, O, and P Streets. Reservoir Road provides four points of access to the campus. Access control gates in the interior of the campus preclude the north-south movement of vehicles across the campus (except for service vehicles).

15. The campus is served by several Metrobus routes, some of which connect the campus to Metrorail stations, as well as by shuttle buses operated by the Georgetown University Transportation Shuttle ("GUTS"). The five GUTS shuttle bus routes connect the campus and locations in the District (Dupont Circle, Wisconsin Avenue, and the University's law school) and in northern Virginia (Rosslyn and North Arlington). The GUTS shuttle buses are free for the University's students, faculty, and staff, and currently serve more than 3,000 riders per day.

16. The Board credits the testimony of the Applicant's traffic expert that approximately 30 percent of the traffic on Reservoir Road during peak hours is related to the University, while the balance is commuter and neighborhood traffic,

and that all intersections abutting the campus operate at acceptable levels of service.

17. The Board credits DPW's testimony that university-related traffic flow along 38th and 39th Streets adjacent to the campus are nine and two percent, respectively, an amount of traffic not likely to cause adverse traffic impact in the residential area.

18. The Board credits the testimony of DPW that the provision of on-campus housing is an effective way to minimize traffic to and from the campus, and its conclusion that the Applicant's plans to house 84 percent of its undergraduate students on campus after completion of the Southwest Quadrangle project (up from 77 percent) would have an extremely beneficial improvement on local traffic.

19. The Board credits the testimony by DPW that the increases in students, faculty, and visitors to the campus projected in the Applicant's proposed 2000 campus plan would not generate adverse traffic impacts, in part because some of the additional trips to the campus would be made by mass transit or other non-vehicular modes of travel, and because most of the trips would likely occur during non-peak times.

20. As part of the 2000 campus plan, the Applicant proposed to implement a transportation management plan ("TMP") intended to ensure that traffic and parking generated by the University would not create any adverse impacts on neighboring communities. Elements of the TMP include:

    (a) Continued operation and expansion of the GUTS shuttle bus system – the University doubled the fleet of GUTS vehicles to serve new and existing routes, using small buses that would be less intrusive on neighborhood streets, expanding hours of operation, and scheduling more frequent trips on each route, especially during rush hours;

    (b) Enhanced alternative transportation programs – the University increased incentives provided to students, faculty, and staff to use carpools, and implemented the Metrochek program to encourage use of mass transit;

    (c) Implementation of an off-site parking program – the University planned to create satellite parking options in Rosslyn (and possibly in Maryland, depending on demand) for use by University students, faculty, and staff, who would pay an off-campus parking rate half the cost of parking on campus and receive free shuttle bus service to and from campus.

21. The Board finds that approval of the Applicant's proposed campus plan is not likely to create conditions objectionable to neighboring property because of traffic.

Parking

22. The campus provides parking for 4,029 vehicles. The existing campus parking supply is consistent with the cap of 4,080 spaces approved in the University's 1990 campus plan as a means to discourage people from driving to the campus. The Applicant proposed to maintain the cap of 4,080 parking spaces in the 2000 campus plan.

23. Campus parking is presently provided on a large surface lot in the southern portion, in three garages in the northern portion, and in numerous small surface lots. There are 1,535 marked parking spaces located on the southern portion of the campus, accessed from Canal Road and Prospect Street. An additional 2,494 spaces (a combination of marked and stacked parking spaces) are located on the northern portion of the campus accessed from Reservoir Road. The Applicant indicated an intent to provide additional parking spaces – initially a total of 2,545, and eventually 2,800 spaces – in the northern portion of the campus near the hospital and clinical center, and to maintain the supply of 1,535 spaces in the southern portion for use primarily by faculty, staff, students, and visitors. Two new parking facilities were proposed for the Medical Center campus to replace surface parking and a valet parking program that provides 400 parking spaces and handles approximately 560 cars per day. The large surface lot at the south end of campus would be replaced with a below-grade parking structure as part of the Southwest Quadrangle, with access directly from Canal Road.

24. Students living on-campus are not permitted to have cars on campus, and students living in areas of the District and Northern Virginia accessible to campus by Metro or the GUTS service may not use campus parking. Students living off-campus are required to register their vehicles with the Department of Motor Vehicles.

25. Most streets in the vicinity of campus restrict long-term parking through the use of parking meters or by requiring the applicable residential parking permit.

26. The Board credits the testimony of the Applicant's traffic expert that the peak parking demand on the campus is approximately 3,600 vehicles, occurring at approximately 2 p.m. on weekday afternoons.

27. The Board credits the testimony of DPW that the current supply of parking on-campus (*i.e.* 4,029 spaces) is adequate to meet peak demand requirements.

28. The Board finds that the Applicant's proposal to maintain the existing cap of 4,080 parking spaces within the campus boundaries is adequate to meet the demand for parking associated with the university use and is appropriate as a means to discourage people from driving to the campus. Approval of the Applicant's proposed campus plan is not likely to create conditions objectionable to neighboring property because of parking.

Number of Students

29. In the University's prior campus plan, the Board adopted an enrollment cap of 5,627 undergraduate students, excluding "non-traditional students such as women returning to school, English as a second language students, commuters, and other non-traditional students not requiring housing." (*See* BZA Application No. 15302, order dated October 12, 1990, at 9.)

30. The University's enrollment in 2000 included 6,166 undergraduate students (approximately 5,842 full-time and 325 part-times students), and 2,840 graduate students.

31. The Applicant proposed to increase its enrollment cap by 389, to a maximum of 6,016 traditional undergraduate students. The Applicant also proposed to increase graduate student enrollment by 1,284, of whom approximately 800 would be enrolled in programs on the campus.

32. The University testified that the number of traditional undergraduate students is measured as an average taken over the Fall and Spring semesters of the academic year.

33. Approximately 77 percent of the University's traditional undergraduate students presently live on campus. Freshman and sophomore students are required to live on-campus.

34. A new residence hall project, the Southwest Quadrangle, was scheduled to be completed by Fall 2003, providing 780 new beds on campus and raising the proportion of traditional undergraduates living on campus to 89 percent. After completion of the Southwest Quadrangle, the University would have available approximately 5,053 beds on campus for undergraduate students. The Applicant projected that at least 84 percent of undergraduates would live on campus by 2010, with the requested increase in enrollment 389 deferred until the Southwest Quadrangle was completed.

35. The Applicant operates an office of off-campus affairs intended, among other things, to assist students making the transition to off-campus living, to serve as a

liaison between students and residents of neighborhoods near the campus, to establish standards of responsible conduct, and to investigate and adjudicate violations of the University's Code of Conduct that occur off-campus. Components of the off-campus program, *including recent improvements by the* Applicant, include:

(a) Educational outreach to students, including distribution of a handbook to new students that articulates the University's expectations for students, an off-campus orientation for sophomores that provides information about local laws, safety, and neighborhood matters; and on-going programs concerning alcohol or substance abuse;

(b) An office of off-campus housing, which will provide information about housing available to students and publish materials providing information about off-campus living; and

(c) A telephone hotline operated during the school year from 9:00 p.m. to 3:00 a.m. on Thursday, Friday, and Saturday nights as well as certain holidays, allowing neighborhood residents to call to report concerns to an operator who contacts the appropriate students or dispatches an "on-site response person" to discuss the concern with the students.

36. Students may be disciplined for misconduct that occurs off-campus, primarily relating to noise and late-night parties. Sanctions for off-campus violations of the University's code of conduct may include suspension, and typically range from community service and fines to disciplinary probation.

37. The Applicant proposed to implement a new "off-campus student affairs program" with proactive measures intended to address adverse impacts from students living in the surrounding community. Elements of the program include:

(a) An acknowledgement that the University 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 outlined immediate, short-term, and long-term actions that could be monitored, tracked, and evaluated, so that statistics could be shared with ALL and reported to the Office of Planning and the Zoning Administrator annually.

38. The Board finds that the Applicant's proposal to increase its enrollment cap on the number of traditional undergraduate students to 6,016, calculated as an average over the Fall and Spring semesters of the academic year, is not likely to become objectionable to neighboring property or to adversely affect the use of neighboring property. After completion of the new Southwest Quadrangle project, the University will have more than 5,000 beds on campus, a number sufficient to house 84 percent of the traditional undergraduate population. The University has implemented new measures and enhanced existing programs that will help to prevent and mitigate the impacts of any student misconduct off-campus in the neighborhoods abutting the campus.

39. The Board credits the testimony of the Office of Planning and DPW that the Applicant's proposed increase in graduate student enrollment would have only limited impacts and would not tend to create objectionable conditions.

Harmony with the Zone Plan

40. The Board finds that the Applicant's proposed campus plan will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. The new construction projected in the plan will result in a floor area ratio and lot occupancy for the campus consistent with requirements of the Zoning Regulations.

41. The Board finds that the Applicant's proposed campus plan is consistent with provisions in the Comprehensive Plan germane to the University, including the statements in the Ward 2 element indicating that the University's "development plans ... should not adversely impact surrounding adjacent residential areas" (§ 1340.3) and expressing concern about the conversion of residential property in Burleith and Hillandale to group houses (§ 1361.2).

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 the years 2000 to 2010. 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. Official Code § 6-641.07 (2001), 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, subject to conditions adopted in this Order necessary to minimize any potential adverse impacts on neighboring property associated with the university use consistent with the new campus plan.

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 concludes that the Applicant's proposed increase in the cap on enrollment applicable to traditional undergraduate students will not tend to create conditions objectionable to neighboring property or otherwise adversely affect the use of 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 University's new off-campus student affairs program is likely to lessen the incidence of student misconduct in the surrounding neighborhoods.

The Board notes the ANC's support for a phased-in increase in the cap on undergraduate enrollment from 5,627 to 6,016 after completion of the Southwest Quadrangle project. According to ANC 2E, the impact of off-campus student housing will be significantly reduced through completion of the Southwest Quadrangle and by maintaining 85 percent of undergraduates in on-campus housing.

The Board gives great weight to the testimony of the Office of Planning concerning the relationship between enrollment and the percentage of students housed on-campus, describing problems created by some students living in rented houses off-campus, and concluding that the "potential effects of increased undergraduate and graduate enrollment ... raise questions of continuing though reduced adverse impacts on the surrounding communities in the future." However, the Board declines to adopt OP's suggested "formula" approach, which would require the University to take certain actions intended to mitigate the impact of a larger enrollment on the residential neighborhoods surrounding the campus if the number of undergraduate students living in Zip Code 20007 exceeded a certain number.

The Board is not persuaded that the "formula" approach is necessary. As OP itself noted, completion of the Southwest Quadrangle would likely lessen the impacts of undergraduate students on neighborhoods in the vicinity of the campus. It is unclear how the proposed "formula" approach would be implemented and enforced, other than through a reliance on "monitoring of the housing situation." The Board concludes that the increased supply of on-campus housing, sufficient to house more than 80 percent of the increased enrollment of traditional undergraduate students on campus, and the implementation of proactive measures by the University to address potential adverse impacts associated with students living in the neighborhoods near the campus are adequate to avoid creation of objectionable conditions in the neighborhoods bordering on the campus.

The Board was not persuaded by the parties in opposition that the university use is currently creating adverse impact on neighboring property, or that the proposed increase in enrollment would create objectionable conditions not capable of mitigation through the University's enhanced programs addressing student conduct off-campus. Some students living off-campus – albeit a minority of students living off-campus and a small fraction of the University population – may create objectionable conditions in communities surrounding the campus through several causes, including student misconduct. The University's off-campus programs are a reasonable approach that will allow the University to monitor off-campus student activity in a proactive manner to prevent adverse impacts that off-campus student houses or vehicles may otherwise have on the community.

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 that urged implementation of measures to strengthen the University's off-campus affairs

program and thereby minimize the potential adverse impact of the University on surrounding residential neighborhoods.

CONCLUSION

For the reasons stated above, the Board concludes that the Applicant has met its burden of proof with respect to the application seeking approval of a new campus plan effective through December 31, 2010, subject to the conditions adopted in this Order. 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.

2. The Applicant shall not increase undergraduate enrollment above the cap of 6,016. This cap shall apply to traditional full-time undergraduate students (that is, undergraduate students who require housing) and shall be calculated as an average of the total enrollment of traditional undergraduate students during the Fall and Spring semesters of the academic year.

3. The Applicant shall implement and enforce programs, as described in Findings of Fact No. 35-37 and set forth in Exhibit No. 191 of the record, designed to mitigate any adverse impacts associated with students living off-campus in the neighborhoods in the vicinity of the campus.

4. 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 facilitate 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.

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

6. The Applicant shall enhance its Transportation Management Program, described in Finding of Fact No. 20, so as to promote greater transit usage, including

increased ridership of the GUTS bus service, and 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.

7. The Applicant shall prepare a revised campus plan that is consistent with this Order, accompanied by a table of changes that lists each change. In addition, the Applicant shall include in the revised Campus Plan its Code of Student Conduct; Guide to Off-Campus Living, description of its New Office of Campus Student Affairs Program, and any other documents reflecting the programs, policies and procedures it has or will institute, and to which it is required to implement and enforce, pursuant to condition no. 3 of this Order, including those described in Findings of Fact No. 35-37 and set forth in Exhibit No. 191 of the record. The Applicant shall submit an original and 10 copies of the revised plan to the Board no later than 30 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 14 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 copy 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.

VOTE: **4-0-1** (Geoffrey H. Griffis, Ruthanne G. Miller, Curtis L. Etherly, Jr., and John A. Mann II voting to approve the application subject to conditions; Zoning Commission member not participating, not voting)

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, Office of Zoning

Final Date of Order: June 7, 2005

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 ISSUED PURSUANT TO THIS ORDER.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16566-F (Corrected Order on Remand)

As Director of the Office of Zoning, I hereby certify and attest that on JUN 07 2005 a copy of the letter entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

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General Manager
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Washington, D.C. 20001

rsn

ATTESTED BY:

JERRILY R. KRESS, FAIA
Director, Office of Zoning

CERTIFICATE OF SERVICE

I certify that copies of the foregoing *Petition for Review* was mailed, postage prepaid, on July 1, 2005 to the following:

Maureen E. Dwyer, Esq.
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_____

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Washington, DC 20006

CERTIFICATE OF SERVICE

I certify that copies of the foregoing *Petition for Review* was mailed, postage prepaid, on July 5, 2005 to the following:

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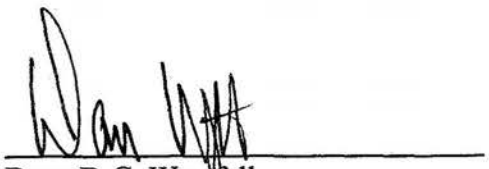
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