Government of the District of Columbia
Office of Zoning

Z.C. CASE NO.: 03-29

As Secretary to the Commission, I herby certify that on June 15, 2004, copies of this Z.C. Order No. 03-29 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

1. *D.C. Register*

2. Maureen E. Dwyer, Esq.
Allison C. Prince, Esq.
Ashleigh D. Horne, Esq.
Shaw Pittman, LLP
2300 N Street, N.W.
Washington, D.C. 20037

3. Dorothy Miller, Chair
ANC 2A
St. Mary's Court
725 24th Street, N.W.
Washington, DC 20037

4. Joshua Singer, Chair
ANC/SMD 2A06
2100 F Street, N.W., #703
Washington, D.C. 20052

5. Gottlieb Simon
ANC
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

6. Councilmember Jack Evans

7. Office of Planning (Ellen McCarthy)

8. Ken Laden, DDOT

9. Zoning Administrator

10. Corporation Counsel

11. Sigma Alpha Epsilon Foundation
c/o Frank C. Ginocchio, Esq.
310 Hawser Lane
Naples, FL 34102

12. Sigma Alpha Epsilon Foundation
Attn: Beth Taylor, Director of Finance
1856 Sheridan Road
Evanston, IL 60201-3837

ATTESTED BY: Alberto P. Bastida

Alberto P. Bastida, AICP
Secretary to the Zoning Commission

ZONING COMMISSION
District of Columbia
CASE NO. 03-29
EXHIBIT NO. 67

ZONING COMMISSION
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ZONING COMMISSION ORDER NO. 03-29
Z.C. Case No. 03-29
(Consolidated Planned Unit Development for
The George Washington University – Square 103 Residence Hall)

Pursuant to notice, the Zoning Commission for the District of Columbia held a public hearing on February 19, 2004 to consider an application from the George Washington University for consolidated review and approval of a planned unit development pursuant to Chapter 24 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022.

FINDINGS OF FACT

1. On July 30, 2003, the George Washington University ("Applicant" or "University") filed an application for consolidated review and one-step approval of a planned unit development ("PUD") and related Zoning Map amendment for the property consisting of Lot 817 in Square 103. The Applicant requested approval of a map amendment from R-5-D to C-3-C to construct a 530-bed residence hall with 125,000 square feet of gross floor area and a height of 120 feet.

2. During its meeting on November 12, 2003, the Commission expressed concern about the proposed height and decided to set down the application for a hearing within the framework of the existing R-5-D zoning. As a result, the maximum height of the building was reduced to 90 feet, and the number of proposed beds was reduced to 379. Notice of the public hearing, including a description of the subject property and the proposed development, was published in the D.C. Register on December 26, 2003 (50 D.C. Reg. 11067), and was mailed to all property owners within 200 feet of the subject property and to Advisory Neighborhood Commission ("ANC") 2A.

3. Parties in this proceeding were the Applicant and ANC 2A. The Foggy Bottom Association ("FBA") withdrew its request for party status at the hearing. At the public hearing on February 19, 2004, the Commission heard testimony and received evidence from the Applicant, ANC 2A, and the Office of Planning, as well as from persons in support of or in opposition to the application.

4. The University's Foggy Bottom campus is bounded generally by 19th Street to the east, 24th Street to the west, Pennsylvania Avenue to the north, and E Street to the south. As of the Fall of 2002, the University enrolled approximately 8,066 undergraduate students,

4,526 of whom had on-campus housing. The Board of Zoning Adjustment ("BZA") conditionally approved the University's 2000 Campus Plan in BZA Application No. 16553 ("Campus Plan"; *see* BZA Order No. 16553-I, April 26, 2004). As stated during the 2000 Campus Plan process, the University is committed to housing more of its students on campus. During that process, ANC 2A, FBA, several tenant associations, and the Office of Planning ("OP") requested that the BZA require the University to provide more student housing within the Campus Plan boundaries. OP testified that it would support the concept of using flexible zoning guidelines with regard to building height and density to maximize housing on campus. The proposed PUD responds to the University's commitment to increase on-campus housing on an expedited basis, thereby addressing the issue that dominated the Campus Plan process. The use of the PUD process to maximize beds is consistent with OP's suggested use of flexible zoning tools.

5. The site of the proposed PUD (the "PUD Site") is located at 2025 F Street, N.W. (Square 103, Lot 817). The PUD Site is mid-block between 20th and 21st Streets in the southeastern portion of the University's campus in the Foggy Bottom neighborhood of Ward 2, within the boundaries of ANC 2A.

6. The PUD Site has frontage of approximately 238.7 feet along F Street and a depth of approximately 120.79 feet. The land area of the PUD Site is approximately 28,669 square feet. The PUD Site thus exceeds the applicable minimum area requirement of 15,000 square feet set forth in 11 DCMR § 2401.1 for a PUD in the R-5-D district.

7. The PUD Site, and the surrounding campus, are designated in the Institutional land use category on the District of Columbia Generalized Land Use Map. The areas immediately to the north and to the east of the campus are designated for high-density commercial use, and the area immediately to the south is designated for high-density residential use.

8. The PUD Site is zoned R-5-D. The R-5-D district permits a maximum height of 90 feet, a maximum lot occupancy of 75 percent, and a maximum density of 3.5 FAR. The PUD guidelines for the R-5-D district allow a maximum height of 90 feet and a maximum density of 4.5 FAR. The FAR aggregation rule that applies to residentially zoned property subject to a campus plan would permit greater density on the PUD Site provided that the overall campus density did not exceed 3.5 FAR. *See* 11 DCMR §§ 210.3, 402.4. The R-5-D district requires a rear yard of 30 feet for a 90-foot building, and a minimum width of an open court of 3 inches per foot of height, but not less than 10 feet. A penthouse structure on the roof of a building must be set back from all exterior walls a distance at least equal to its height above the roof, and must not exceed 18 feet, 6 inches in height.

9. The proposed PUD includes an existing building and a new residence hall to be constructed on portion of the site currently used for parking. The existing building, known as the Support Building, has a height of 46 feet and approximately 150 feet of frontage along F Street. The Support Building is located on the western portion of the PUD Site and occupies approximately 17,956 square feet of the land within the PUD Site. The Support Building functions as the center for facilities operations for the University,

housing the Offices of Facilities Management; Facilities Development; Housekeeping; Residential Property Management; Mail Services; Risk Management; Institutional Auxiliary Services; Construction Programs; and Architecture, Engineering, and Construction. The service area behind the Support Building serves as the central receiving area for deliveries to the University.

10. The eastern portion of the PUD Site, with an area of approximately 10,713 square feet and frontage of approximately 88 feet, is currently improved with a surface parking lot. The Applicant proposes to construct a new residence hall on this portion of the PUD Site.

11. The parking lot provides 60 parking spaces, some of which are stacked. Although the parking lot will be removed when construction on the new residence hall begins, the University will maintain the minimum 2,800 total parking spaces required on-campus by the approved Campus Plan.

12. The proposed project has been designed to maximize on-campus housing under the existing zoning, and will allow approximately 100 more beds than would be allowed under matter-of-right zoning. The residence hall will consist primarily of two-bedroom dormitory units planned for use by freshmen. Generally, each unit will house four students, with two students per bedroom; the residence hall will also accommodate a community director and approximately eight student facilitators. The PUD will also contain approximately 1,300 square feet of ground-floor retail space, which the Applicant intends to devote to food service, provisions, or similar uses of convenience to students and other community residents. The retail space will be predominantly for student use, but will be open to the public. The proposed new residence hall will contain approximately 90,000 square feet of gross floor area.

13. In its order conditionally approving the Applicant's campus plan, the Board of Zoning Adjustment required the University to make available beds for at least 5,600 full-time undergraduate students on campus by August 31, 2006, and to make available one bed on campus for each full-time undergraduate in excess of the base number (*i.e.*, 8,000) whenever the head count of full-time undergraduate enrollment exceeds 8,000 (*see* BZA Order in Application No. 16553-I, April 26, 2004).

14. Since approval of the 2000 Campus Plan, the University has been engaged in the process of constructing more dormitory beds on campus. The bed count has been increased by approximately 668 since 2001. With the addition of a new residence hall in Square 43, scheduled for completion in the Fall of 2004, the total number of beds added since 2001 will be 1,396. Completion of the PUD project will result in a total of 1,775 new beds since 2001.

15. The Campus Plan identified several preferred sites for on-campus housing, including a parcel at the southeast corner of Square 103. Development of a residence hall on the PUD Site will supplement, rather than replace, student housing developed on the sites identified in the Campus Plan as preferred locations for on-campus housing.

16. In the proposed PUD, the combined gross floor area of the Support Building and the new residence hall will be 114,281 square feet. The PUD Site will have a total density of 3.98 FAR, which is less than the 4.5 FAR allowed for a PUD in the R-5-D district. The additional density (*i.e.* the difference between 3.98 and 3.5 FAR) will be aggregated as part of the total density for the entire campus, as permitted under 11 DCMR § 210.3.

17. To provide 100 more beds than would be possible under matter-of-right zoning, the proposed residence hall requires relief from the rear yard, penthouse setback, lot occupancy, and court requirements of the R-5-D district. The Commission finds that the requested zoning relief will not create objectionable impacts.

    (a) To maximize the capacity to house students, the residence hall will abut the alley at the rear of the PUD Site; no rear yard will be provided. The lack of a rear yard will not be objectionable, because the 16-foot-wide alley will provide for adequate light and air, and the residence hall building has been designed so that none of the units faces the alley. The University owns the abutting properties on F Street, and the University and University-related fraternities own the properties abutting the rear alley. Any adverse impact would affect only the University.

    (b) The open courts do not conform with strict zoning requirements but are wide enough to provide ample light and air to the residence hall and the abutting buildings. The new residence hall will be separated from the court of the adjacent building to the east by a distance of 25 feet, and the adjacent portion of the Support Building is constructed only to the second floor level.

    (c) For the same reasons, the slightly increased lot occupancy will not be objectionable to neighboring properties. The minor relief regarding the penthouse setbacks will have no impacts.

18. The proposed PUD will provide the following project amenities and public benefits:

    (a) Housing. The project will create approximately 379 new beds within the Campus Plan boundaries that will be in addition to student housing constructed by the Applicant on the preferred sites for on-campus housing identified in the Campus Plan.

    (b) Uses of Special Value. The Comprehensive Plan indicates that the provision of additional on-campus housing for students of the George Washington University will be particularly beneficial to the Foggy Bottom neighborhood. The project will also provide approximately 1,300 square feet of retail space on the ground floor of the residence hall and a new food service facility at Quigley's, an existing building located at the northwest corner of Square 103 at 619 21st Street N.W.

    (c) Urban Design, Architecture, and Landscaping. The project provides an environmentally sensitive building with attractive landscaping, including a new, more attractive streetscape for the portion of F Street along the front of the new building. The residence hall has been designed carefully to ensure that the design

complements the area. The façade along F Street is articulated with bays that will add visual interest and relate well to the Support Building and townhouses to the northwest. The building design involves high-quality materials such as brick and superior detailing.

(d) Site Planning. The project provides efficient and economical land utilization through new development on an underused site that will create desirable infill development with an attractive urban design and streetscape. The renovation of Quigley's will further the overall development of Square 103.

(e) Effective and Safe Vehicular and Pedestrian Access. The project will provide a positive impact on the overall transportation infrastructure in the area near the site, because the students residing in the residence hall will be able to walk to classes and other activities on campus.

(f) Furthering the Comprehensive Plan. The project will further the goals and objectives of the Comprehensive Plan by guiding the development of institutional uses in the District and stabilizing the Foggy Bottom neighborhood by housing more students on campus.

(g) Environmental Benefits. The building will be designed in an environmentally sensitive manner. The University will engage an independent commissioning authority to verify the installation, functional performance, training, and documentation of the building's systems. In addition, no CFC-based refrigerants or halon will be specified in this project, and major equipment, such as main chillers, will be specified not to contain HCFC. The indoor environmental quality will be superior, because tobacco smoke will not be allowed in the building, and the interior surfaces will be finished with low-emitting materials to the extent possible. The materials and resources used in the project will, to the extent possible, be manufactured, extracted, harvested, or recovered locally or regionally. The site also features sustainable aspects such as an exterior lighting design that will limit light trespass from the building site and an interior lighting design that will limit direct-beam illumination from the building site. The elimination of the surface parking lot and the location of the site in proximity to public transportation provide additional environmental benefits.

19. The Commission finds that the PUD project is acceptable in all proffered categories of project amenities and public benefits, and qualifies for approval by being particularly strong in the categories of housing, furthering the Comprehensive Plan, and environmental benefits.

20. By report dated February 9, 2004, and by testimony at the public hearing, the Office of Planning recommended approval of the application. OP stated that the proposed PUD meets the standards of the PUD regulations in chapter 24 of the Zoning Regulations, provides significant public benefits, is consistent with the intent and purpose of the Zoning Regulations and Map and with the University's Campus Plan, and is not inconsistent with the Comprehensive Plan.

21. According to OP, the zoning flexibility requested by the Applicant would allow the University to provide approximately 100 additional beds on the site, which is a benefit and the main amenity of the PUD. OP further found that the retail space on the ground floor of the residence hall is an amenity that will serve the residents of the project as well as some members of the adjacent community. OP also concluded that replacing a parking lot with an attractive new building is an amenity. OP determined that the streetscape improvements proposed by the Applicant will contribute to the larger sense of place for the block and are a step in the continuing effort to improve the streetscape throughout the campus. In addition, OP observed that the renovation of Quigley's will further the overall development of Square 103. OP concluded that the proposed project's impacts on the surrounding area and on public facilities and services are acceptable and commensurate with the public benefits of the PUD.

22. The Commission credits the testimony of OP that the project offers superior amenities and benefits to the community and the District. The Commission agrees with OP that expediting and increasing the housing of undergraduate students on campus is a benefit. The Commission also agrees with OP that the provision of public, ground-floor retail on the PUD Site is an amenity that will benefit both the residents of the new residence hall and members of the adjacent community.

23. The District Department of Transportation ("DDOT"), by memorandum dated February 11, 2004, recommended approval of the proposed PUD. DDOT determined the additional on-campus housing would have a positive impact on traffic and parking conditions on streets surrounding the campus. DDOT found that off-street loading facilities located in the Support Building adjacent to the proposed new residence hall will accommodate the service and delivery needs of the new residence hall. DDOT determined the proposed PUD would increase on-campus housing in compliance with the DDOT recommendations in the Campus Plan proceeding.

24. DDOT filed a supplemental report on February 23, 2004, in which it reiterated its support for the proposed PUD. DDOT conducted a site visit with a representative of ANC 2A on February 17, 2004 that reinforced its earlier determination that additional on-campus housing would reduce overall traffic congestion in Foggy Bottom. DDOT encouraged the University to stagger move-in times and to make space available at the Support Building during student move-in and move-out times to reduce congestion along F Street and adjacent streets. DDOT further recommended that the University coordinate with the Metropolitan Police Department and Department of Public Works parking enforcement staff to enforce prohibitions on double parking and other traffic violations, and that the University consider imposing restrictions on automobile use by residents of the new residence hall.

25. The Commission credits DDOT's conclusion that the proposed PUD will have a positive impact on traffic and parking conditions in and around the campus. The Commission also credits DDOT's testimony that a separate off-street loading area for the residence hall is not necessary because it is located adjacent to the central loading and receiving area for the University.

26. Three residents of Foggy Bottom, including one University student, testified in support of the application. They noted the benefits of the construction of additional on-campus beds as well as the advantages of the proposed retail use, and complimented the design of the building and the enhanced streetscape.

27. The Foggy Bottom Association indicated its opposition to the application through letters submitted to the record and through testimony at the hearing. By letter dated November 11, 2003, FBA contended that any development on the PUD Site should be reviewed as a special exception request for further processing under the Campus Plan; the location of the proposed residence hall is objectionable because it will concentrate a large number of students in a small area; a nearby PUD at 1957 E Street N.W. has created objectionable impacts such as increased noise and pedestrian traffic in the area; and the proposed residence hall will adversely affect the residential community east of 23rd Street. By letter dated February 9, 2004, FBA asserted that the University has exceeded its enrollment cap and houses students at the Mount Vernon Campus; the University develops its undergraduate residential housing on an "ad hoc" basis without developing a cohesive plan; the University will not be required to count the proposed PUD as part of its aggregate FAR; and the project requires an environmental impact statement.

28. The Commission concurs with the Applicant's architect with respect to the requested areas of relief, and finds that the lot occupancy, court width, penthouse setback, and rear yard relief will not diminish the quality of the project or result in adverse impacts to its residents or to neighboring properties.

29. ANC 2A, by resolution dated January 27, 2004, recommended against approval of the proposed PUD. The ANC's issues and concerns were that: (a) the Zoning Regulations do not permit use of the PUD process in an area regulated by a campus plan; (b) the campus plan process already provides universities with significant flexibilities; (c) the additional flexibility allowed under the PUD process would set negative precedents and create negative consequences for neighborhoods bounding an approved campus plan area; (d) the Applicant could construct the residence hall without a PUD by obtaining variances, and the flexibility of development allowed under the PUD process could result in unforeseen future development on the site; (e) elimination of the rear yard would not provide adequate light and air to the building and the university-related fraternity buildings to the rear of the site; (f) the reduced court width would not provide adequate light and air to the residence hall; (g) the Applicant miscalculated the lot occupancy, so that the requested flexibility with regard to lot occupancy is greater than proposed by the Applicant; (h) the Applicant might not continue to provide the loading facilities available in the adjacent service building; (i) the proposed ground-floor retail space is objectionable because it is too vague, is unnecessary, and would be noisy; and (j) the Applicant's proposed amenities are inadequate.

30. The Commission accorded ANC 2A the "great weight" to which it is entitled. In doing so, the Commission fully credited the unique vantage point that ANC 2A holds with respect to the impact of the proposed residence hall on the ANC's constituents. However, the Commission concludes that the ANC has not offered persuasive advice that

would cause the Commission to find that the residence hall is contrary to the Zoning Regulations and would adversely affect the use of neighboring property.

31. The Commission is not persuaded by ANC 2A's assertions that the PUD process is not available to properties subject to a campus plan, or would result in negative consequences. The filing of a PUD application for a property within the boundaries of an approved campus plan may be made pursuant to 11 DCMR § 2405.7. The PUD process is appropriately used to encourage high-quality developments that provide public benefits, and offers flexibility of development for projects that offer a commendable number or quality of public benefits. 11 DCMR §§ 2400.1, 2400.2. The PUD process offers flexibility that is not otherwise available under the campus plan process.

32. With regard to the ANC's issues and concerns pertaining to rear yard, court width, and lot occupancy, the Commission credits the testimony of the Applicant's architect and the Office of Planning that the requested zoning relief was correctly calculated and will not adversely affect the use of neighboring property or create adverse impacts for the proposed residence hall.

33. With regard to the loading dock, the Commission concurs with DDOT that the residence hall does not require a separate off-street loading area in light of the University's central loading facility, and is not persuaded by the ANC's concern that the University might not continue to provide the adjacent loading facility in the future. Nor does the Commission agree with the ANC's assertions that the Applicant's proposed amenities are inadequate or that the project's ground-floor retail space is objectionable, for reasons discussed above in Finding of Fact No. 18.

34. The proposed PUD is consistent with the Major Themes of the Comprehensive Plan, especially those relating to stabilizing and improving the District's neighborhoods and respecting and improving the physical character of the District. The construction of additional on-campus student housing on the site of an existing surface parking lot is a significant improvement to the physical character of the District, and will help stabilize the surrounding neighborhood by providing housing for approximately 379 students in an on-campus dormitory setting. The project is also consistent with the District's goals for reducing traffic; because the residence hall is located on campus, the residents will be able to walk to school and to University-sponsored events. In addition, the residence hall is within walking distance of Foggy Bottom and Farragut West Metrorail Stations. Despite the loss of the current parking lot, the University will continue to provide parking elsewhere on campus consistent with the approved Campus Plan.

35. The proposed PUD also furthers the objectives and policies of several of the Major Elements of the Comprehensive Plan.

    (a) The proposed project is consistent with sections of the Housing Element that encourage the private sector to provide new housing to meet the needs of present and future residents, that encourage housing on suitably located public or private properties that are underutilized, and that view housing as a key part of the total urban living system.

(b) The environmentally sensitive design of the PUD project is consistent with the goal of the Environmental Protection Element to protect the environment; to resist threats to its overall quality; to act to maintain and enhance its positive features in the interests of residents, workers, and visitors; and to protect residential communities from identified environmental hazards by implementing controls that prevent adverse impacts from incompatible uses.

(c) The project is consistent with the goal of the Urban Design Element because it has been designed to include the use of appropriate arrangements of building materials, height scale, mass, and buffering to complement the immediate region.

(d) With regard to the Land Use Element, the project is consistent with the objective to achieve stability in residential neighborhoods, and complies with objectives for public and institutional land uses, such as assuring neighborhood stability as non-government institutions grow and promoting the continued contributions by private institutions toward the economic and cultural vitality of the District. The project is also consistent with the objective of recognizing the specialized land use needs and unique economic and human development opportunities presented by colleges, universities, and other institutional users of large tracts.

(e) The project is consistent with the goal of the Ward 2 Element that the University must continue to construct student dormitories to alleviate the pressure on the housing stock outside the boundaries of the Campus Plan.

36. The University presented the project to the Commission of Fine Arts for review on July 17, October 16, and December 18, 2003. CFA favorably reviewed the University's revised design for the PUD project, which lowered the proposed height from 120 feet to matter-of-right height requirements in the R-5-D zone.

CONCLUSIONS OF LAW

The PUD process is an appropriate means of controlling development of the site in a manner consistent with the best interests of the District of Columbia. The development of this PUD project will carry out the purposes of chapter 24 of the Zoning Regulations to encourage well-planned developments that offer a variety of building types with more efficient and attractive overall planning and design not achievable under matter-of-right development.

The Zoning Commission has the authority under the Zoning Regulations to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, penthouse setback, yards, or courts. The Zoning Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment. The Commission finds that this PUD project will provide significant public benefits and community amenities providing superior features that will benefit the surrounding neighborhood to a greater extent than a matter-of-right development on

the PUD Site would provide. The approval of this PUD is not inconsistent with the Comprehensive Plan or with other adopted policies and programs related to the site, including the University's approved Campus Plan.

The impact of the proposed PUD on the surrounding area and upon the operation of city services and facilities is favorable and acceptable given the quality of public benefits in the project. The proposed PUD can be approved with conditions that ensure that the development will enhance the neighborhood and ensure neighborhood stability.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia orders **APPROVAL** of this application for Consolidated Review of a Planned Unit Development for the property located at 2025 F Street, N.W. (Lot 817 in Square 103) **SUBJECT** to the following **CONDITIONS**:

1. The PUD shall be developed in accordance with the plans prepared by Ayers/Saint/Gross, dated February 19, 2004, and marked as Exhibit 40 in the record, as modified by the guidelines, conditions, and standards herein.

2. The project shall include a residence hall consisting of approximately 90,000 square feet of gross floor area and constructed to a maximum height of 90 feet. The entire PUD Site shall be constructed to a maximum density of 3.98 FAR. Because the PUD Site is located on the George Washington University campus, the project shall be subject to the aggregation rule set forth in § 210.3.

3. The project shall provide approximately 379 beds for undergraduate students of the University.

4. The PUD shall not include any parking spaces or loading berths. Parking and loading shall be accommodated as prescribed in the approved Campus Plan.

5. The Applicant shall have flexibility with the design of the PUD in the following areas:

   (a) To vary the exterior design, signage, and landscaping in response to changes to the final plans requested by the Commission of Fine Arts.

   (b) To vary the location and design of all interior components, including, but not limited to, partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms.

   (c) To vary final selection of the exterior materials, within the color ranges and materials types as proposed, based on the availability at the time of construction, provided that the quality of the exterior materials is not diminished.

(d) To make minor refinements to exterior details and dimensions, including belts, courses, sills, bases, cornices, railings, and trim or any other changes to comply with the D.C. Construction Codes or that are otherwise necessary to obtain a final building permit.

6. No certificate of occupancy shall be issued to the planned unit development unless the Applicant has filed an application for any zoning approval required for the renovation or expansion of Quigley's to provide the food service called for in this Order. If the application for zoning approval is granted, the University shall use its best efforts to construct the renovation of the Quigley's building and to contract with a vendor to operate the food service. If for any reason the University is unable to secure the required zoning approval within one (1) year of the issuance of the certificate of occupancy for the PUD, or is unable to contract with a vendor for the operation of the food service within eighteen (18) months of the zoning approval for the renovated Quigley's, then the University shall file an application with the Zoning Commission to modify this Order to substitute an amenity of comparable value.

7. The University shall use its best efforts to fill the retail space called for in this Order. In the event that the University, despite its best efforts, is unable to rent the space within one (1) year of the issuance of the certificate of occupancy for the PUD, the University shall commence operation of the retail establishment in the space under its own authority within 24 months of the issuance of the certificate of occupancy pursuant to any required District approvals.

8. The University will coordinate the move-in and move-out procedures for students residing in the PUD with the University Police Department, the Metropolitan Police Department, the District Department of Transportation, and neighboring residents. These procedures will be designed to provide for an efficient means for moving the students in and out of the residence hall at the beginning and end of the academic year so as to minimize the adverse impact on surrounding residents. These procedures shall require use of the existing loading dock of the adjacent Support Building, as well as the use of a separate back entrance on the northeast side of the subject property, to the maximum extent feasible in order to minimize the disruption of traffic along F Street.

9. No building permit shall be issued for this Planned Unit Development until the Applicant has recorded a covenant among the land records of the District of Columbia between the owners and the District of Columbia that is satisfactory to the Office of the Attorney General for the District of Columbia and the Zoning Division of the Department of Consumer and Regulatory Affairs ("DCRA"). Such covenant shall bind the Applicant and all successors in title to construct on or use the property in accordance with this order and any amendment thereof by the Zoning Commission.

10. The Office of Zoning shall not release the record of this case to the Zoning Division of DCRA until the Applicant has filed a copy of the covenant with the records of the Zoning Commission.

11. The PUD approved by the Zoning Commission shall be valid for a period of two (2) years from the effective date of this order. Within such time, an application must be filed for a building permit as specified in 11 DCMR § 2409.1. Construction shall begin within three (3) years of the effective date of this order.

12. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01, et seq. (Act). The District of Columbia does not discriminate on the basis of actual or perceived race, color, religion, national origin, sex, age, marital status, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant to comply shall furnish grounds for the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this order.

At a public meeting on March 8, 2004 the Commission took preliminary action to approve the application by a vote of 4-0-1 (Carol J. Mitten, Anthony M. Hood, Kevin Hildebrand, and John G. Parsons (by absentee vote) in favor; third mayoral appointee not present, not voting).

This order was **ADOPTED** by the Zoning Commission at its public meeting held on May 10, 2004 by a vote of 4-0-1 (Carol J. Mitten, Anthony M. Hood, Kevin Hildebrand, and John G. Parsons in favor; Gregory N. Jeffries not voting, not having heard the case).

In accordance with the provisions of 11 DCMR § 2038, this order shall become final and effective upon publication in the D.C. Register; that is, on JUN 18 2004.

Carol J. Mitten

CAROL J. MITTEN
Chairman
Zoning Commission

JERRILY R. KRESS, FAIA
Director
Office of Zoning