Government of the District of Columbia
OFFICE OF ZONING

Z.C. CASE NO.: 04-25

As Secretary to the Commission, I herby certify that on AUG - 5 2005 copies of this Z.C. Order Nos. 04-25 and 04-25A were mailed first class, postage prepaid or sent by inter-office government mail to the following:

1. *D.C. Register*

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   2300 N Street, N.W.
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   Washington, D.C. 20002

6. James W. Russell, Chair
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   620 Michigan Avenue, N.E.
   Washington, D.C. 20064

7. ANC/SMD 5C11 - Vacant

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

9. Councilmember Vincent B. Orange, Sr.

10. Office of Planning (Ellen McCarthy)

11. Ken Laden, DDOT

12. Zoning Administrator

13. Office of Attorney General

ATTESTED BY: Sharon S. Schellin
Sharon S. Schellin
Acting Secretary to the Zoning Commission
Office of Zoning

[redacted]
District of Columbia
CASE NO. 04-25
EXHIBIT NO. 36

ZONING COMMISSION
District of Columbia
CASE NO.04-25
EXHIBIT NO.36

GOVERNMENT OF THE DISTRICT OF COLUMBIA
ZONING COMMISSION



ZONING COMMISSION ORDER NO. 04-25
Z.C. Case No. 04-25
(Catholic University – Map Amendment)
June 20, 2005

Pursuant to proper notice, the Zoning Commission for the District of Columbia held a public hearing on April 14, 2005, to consider an application of Catholic University of America ("University" or "Applicant") for a Zoning Map amendment of property identified as Parcel No. 121/29 of Square 3663 from unzoned to the R-5-A District under 11 DCMR §§ 102 and 3021. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Zoning Commission hereby approves the application.

Preliminary Matters

The University submitted an application on September 29, 2004, for a Zoning Map amendment for property identified as Parcel No. 121/29 of Square 3663 ("Property" or "West Campus") from unzoned to the R-5-A District in order to allow use of the Property and its addition to the University campus. Also on September 29, 2004, the Applicant submitted an application requesting an amendment to the 2002 Master Plan of The Catholic University of America ("Campus Plan"), which guides the development of the campus through May 12, 2012, and the further processing of the Campus Plan to allow for certain enumerated uses on the Property. On December 13, 2004, the Zoning Commission set down for a public hearing the application for a map amendment.

The parties in this case are the Applicant, Advisory Neighborhood Commission ("ANC") 5A, ANC 5C, and the Michigan Park Citizens Association. The Property is located within the boundaries of ANC 5C, while the University's North Campus is within the boundaries of ANC 5A.

The Notice of Public Hearing was published in the *D.C. Register* on February 25, 2005 (52 *D.C.Reg* 1906). The Notice of Public Hearing was mailed to all property owners within 200 feet of the subject Property, as well as to the ANCs. Zoning placards were properly posted in a timely fashion.

At the public hearing, the Commission heard testimony from the Applicant and the Office of Planning as well as from two (2) persons in support. The Michigan Park Citizens Association testified in opposition to the application, citing a shortage of housing on the Main Campus and asserting that the Property was not appropriate for housing due to its distance from the Main

Campus. Both ANCs submitted letters in support of the application but did not testify at the hearing.

At a special public meeting held on May 16, 2005, the Zoning Commission took proposed action to approve the application for a map amendment from unzoned to the R-5-A District by a vote of 4-0-1. The Commission took final action to approve the application for the map amendment on June 20, 2005, by a vote of 3-0-2.

FINDINGS OF FACT

The Site and the Surrounding Area

1. The Property is a 49-acre parcel that lies immediately to the west of the University's Main Campus in Northeast Washington. The Property, which is unzoned, was acquired by the University from the U.S. Soldiers' and Airmen's Home in April 2004. The Property is improved with a few small structures, but the majority of the parcel is vacant.

2. The site is bounded by North Capitol Street to the west, Irving Street to the southwest, Michigan Avenue to the south, Harewood Road, N.E. to the east, and the Pope John Paul II Cultural Center to the north. In addition to Catholic University, also in the vicinity of the Property are the Veterans Administration Hospital and the McMillan Reservoir.

3. The University's campus is zoned R-5-A, except for certain areas located just south of Michigan Avenue.

4. The University is located in a primarily residential area of low- to medium-density development. Immediately surrounding the campus are many large institutional facilities, particularly houses of religious study, colleges, and hospitals, as well as some light industrial and commercial properties. The campus is divided into three (3) segments. The Main Campus, comprising 95.3 acres, contains the University's administrative, academic, and student life facilities. The South Campus, comprising 8.7 acres, is located south of Michigan Avenue and contains student housing and some support facilities. The North Campus contains 40.5 acres and is located north of Taylor Street. This area is used for recreation programs and includes an athletic center, stadium, and sports fields.

The Map Amendment

5. The Applicant seeks to establish R-5-A zoning on the Property. The R-5 Zone District is a general residence district designed to permit flexibility of design by permitting all types of urban residential development and the construction of those institutional and semi-public buildings that would be compatible with adjoining residential uses and that are excluded from the more restrictive Residence Districts. Pursuant to Section 210.3, the development parameters are prescribed by the 2002 Campus Plan approved by the Commission in Order 20-02. Accordingly, the maximum density for the campus is 1.8 FAR.

6. Section 492 of the District of Columbia Home Rule Act (D.C. Official Code § 6-641.02 (2001)), provides that zoning shall be "not inconsistent" with the Comprehensive Plan for the National Capital. The mapping of the R-5-A District on the Property will help carry out the Comprehensive Plan as set forth below:

   a. *Land Use Element.* Objectives for public and institutional land use include to recognize the specialized land needs and unique economic and human development opportunities presented by colleges, universities, and other institutional users of large tracts, and to require the development of detailed master plans, if none exist, that incorporate all land and facilities concurrently in use or currently owned by the institution and anticipated for future use. 10 DCMR § 1115.1(j).

   b. *Ward 5 Element.* Objectives for land use/zoning in Ward 5 include (a) to "protect and enhance the stability of residential neighborhoods," 10 DCMR § 1629.1 (a), and (b) to "encourage and support an appropriate mix of uses in all economic development, where appropriate including uses such as housing, parks and open space." 10 DCMR § 1629.1 (c).

Report of the Office of Planning

7. In its report of March 28, 2005, OP recommended approval of the University's application for the zoning map amendment. OP noted that the R-5-A District is appropriate for university uses, noting that universities are a use permitted by special exception within the R-5-A District, subject to approval of a campus plan by the Zoning Commission. OP also noted that the requested map amendment would be consistent with the zoning in the surrounding areas since most of the other portions of the University campus are located within the R-5-A District and that other properties around the Property are zoned R-5-A or SP-1, or are unzoned due to institutional federal uses.

8. The Commission credits OP's testimony that the Property is designated as "institutional" and "federal" on the Generalized Land Use Map and it is, therefore, appropriate to use the entire parcel for the use proposed by the Applicant.

Reports of Other Agencies

9. The Fire and Emergency Medical Services Department had no objection to the application, provided that any proposed development had acceptable access for emergency vehicles.

10. The Department of Health had no objection but, "expects [the Applicant] to comply with the District's Environmental Laws as well as federal NPDES Regulations related to MS-4 Permits for construction activities involving an acre or more of land disturbance."

Report of the National Capital Planning Commission

11. The National Capital Planning Commission ("NCPC") concluded that the zoning map amendment to the R-5-A District would not negatively affect the federal interest.

CONCLUSIONS OF LAW

Section 1 of the Zoning Act of 1938 (52 Stat. 797, as amended, D.C. Official Code § 6-641.01 (2001)) establishes the authority of the Commission to, "promote the health, safety, morals, convenience, order, prosperity, or general welfare of the District of Columbia" through regulation of the structures and uses on its land. Section 3 of the Zoning Act of 1938 (52 Stat. 797, 798, as amended, D.C. Official Code § 6-641.03 (2001)) establishes the authority of the Commission to amend the zoning maps of the District of Columbia.

The R-5-A District is specifically designed for low-density development of general residential uses. The Property's current unimproved state and the surrounding low-density residential and institutional uses, primarily of R-5-A and institutional federal uses, therefore, lends itself to R-5-A zoning. The Commission concludes that the R-5-A District is an appropriate zone district to be mapped over the Property.

The Commission further concludes that the requested map amendment from unzoned to R-5-A is not inconsistent with the Comprehensive Plan for the National Capital or with the purposes of the 1938 Zoning Act. The Commission also concludes that the proposed map amendment to R-5-A is consistent with the Generalized Land Use Map's designation of the subject property as "institutional" and "federal." The Commission cannot choose to retain an unzoned designation when zoning has been sought. Here, the Applicant has requested the most restrictive zoning category that is both suitable and not inconsistent with the Comprehensive Plan.

Based upon the above findings and conclusions, the Commission concludes that the requested map amendment is in the best interests of the District of Columbia and will benefit the communities near which the Property is located and the University.

The Commission notes the recommendations in support of the map amendment to R-5-A of ANC 5A, ANC 5C, and OP, and has accorded them the "great weight" to which they are entitled.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission hereby orders **APPROVAL** of the application for an amendment of the zoning map to change the status of the Property from unzoned to the R-5-A District.

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, 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 denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this order.

On May 16, 2005, the Zoning Commission approved the application by a vote of 4-0-1 (Anthony J. Hood, Kevin L. Hildebrand, John G. Parsons, and Gregory N. Jeffries to approve; Carol J. Mitten, having not participated, not voting).

This Order was adopted by the Zoning Commission at its public meeting on June 13, 2005, by a vote of 3-0-2 (Anthony J. Hood, Gregory N. Jeffries, and John G. Parsons to approve; Carol J. Mitten, having not participated, not voting; Kevin L. Hildebrand, not present, not voting).

In accordance with the provisions of 11 DCMR 3028, this Order shall become final and effective upon publication in the D.C. Register on AUG - 5 2005.

ANTHONY J. HOOD
VICE CHAIRMAN
ZONING COMMISSION

JERRILY R. KRESS, FAIA
DIRECTOR
OFFICE OF ZONING

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., SEPTEMBER 16, 2004

Plat for Building Permit of PARCEL 121/29

Scale: 1 Inch = 200 feet Recorded in A & T Book 3515-H THRU K

Receipt No. 14307

Furnished to: SHAW PITTMAN

Surveyor, D.C.

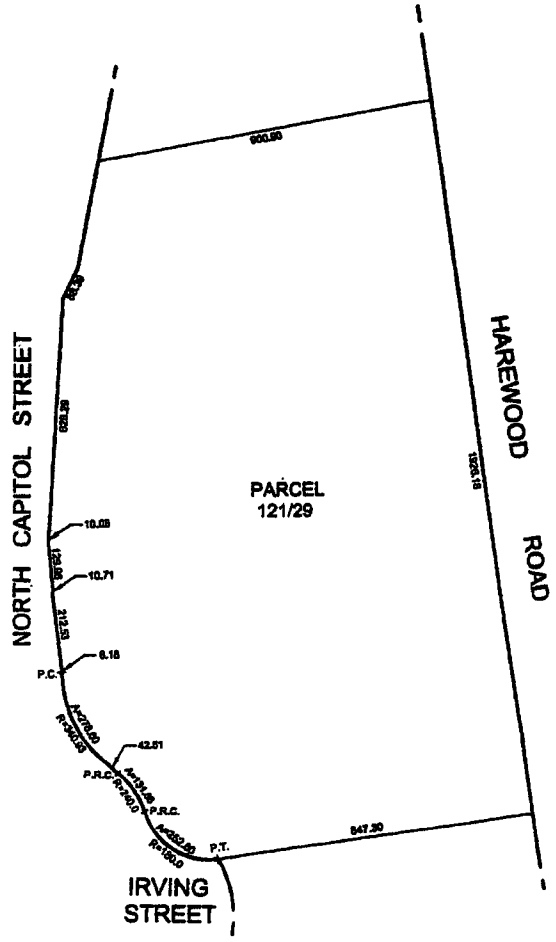
By: B.D.M.

I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly plotted; that all proposed buildings or construction, or parts thereof, including covered porches, are carefully dimensioned and plotted and agree with plans accompanying the application; that the dedication plans as shown hereon is drawn, and dimensioned accurately to the same scale as the property lines shown on this plat; and that by reason of the proposed improvements to be erected as shown hereon the site of any adjoining lot or premises is not encroached to an extent less than is required by the Zoning Regulations for light and ventilation; and I do further certify and agree that accessible parking area same required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that this area has been correctly drawn and dimensioned hereon. I do further agree that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade along centerline of driveway or any point on private property in excess of 20% for single-family dwellings or flats, or in excess of 12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private residential property.)

Date: _____

_____
(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.



Case No. 04-2

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION ORDER NO. 04-25A
Z.C. Case No. 04-25
(Catholic University – Campus Plan Amendment and Further Processing)
June 20, 2005

Pursuant to proper notice, the Zoning Commission for the District of Columbia held a public hearing on April 14, 2005, to consider an application of the Catholic University ("University," or "Applicant") for an amendment to the 2002 Master Plan of The Catholic University of America ("Campus Plan"), which guides the development of the campus through May 12, 2012, to include the property identified as Parcel No. 121/29 of Square 3663, under 11 DCMR §§ 210 and 3014. The Applicant also seeks further processing under the amended plan to allow for the establishment of additional structures and uses as shown on the amended plan. In accordance with 11 DCMR § 210, this case was heard and decided by the Zoning Commission using the rules of the Board of Zoning Adjustment at 11 DCMR § 3100, et. seq. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3104.4. For the reasons stated below, the Zoning Commission hereby approves the application.

Procedural History

On September 29, 2004, the Applicant submitted an application to the Zoning Commission for an amendment to Campus Plan to include the property identified as Parcel No. 121/29 of Square 3663 (the "Property" or "West Campus"), under 11 DCMR §§ 210 and 3014 and for further processing under the amended plan to allow for the establishment of additional structures and uses as shown on the amended plan.[1] On December 13, 2004, the Zoning Commission set down the application for a public hearing.

The parties in this case are the Applicant, Advisory Neighborhood Commission ("ANC") 5A, ANC 5C, and the Michigan Park Citizens Association. The Property is located within the boundaries of ANC 5c, while the University's Main Campus is located within ANC 5A.

A Notice of Public Hearing was published in the *D.C. Register* on February 25, 2005 (52 *D.C.Reg* 1906). The Notice of Public Hearing was mailed to all property owners within 200 feet of the subject Property, as well as to the ANCs. Zoning placards were properly posted in a timely fashion.

[1] Simultaneously with this application, the Applicant applied for rezoning of the Property from unzoned to the R-5-A District in order to allow for the addition of the Property to the University campus. The Commission established R-5-A District on the Property in Z.C. Order No. 04-25.

At the public hearing, the Commission heard testimony from the Applicant and the Office of Planning as well as from two (2) persons in support. The Michigan Park Citizens Association testified in opposition to the application, citing a shortage of housing on the Main Campus and asserting that the Property was not appropriate for housing due to its distance from the Main Campus. Both ANCs submitted letters in support of the application but did not testify at the hearing.

At a special public meeting of June 20, 2005, the Zoning Commission approved the application for the campus plan amendment and further processing of the amended plan on by a vote of 3-0-2.

FINDINGS OF FACT

The Site and the Surrounding Area

1. The Property is a 49-acre parcel that lies immediately to the west of the University's Main Campus in Northeast Washington. The Property was acquired by the University from the U.S. Soldiers' and Airmen's Home in April 2004. The Property is improved with a few small structures, but the majority of the parcel is vacant.

2. The site is bounded by North Capitol Street to the west, Irving Street to the southwest, Michigan Avenue to the south, Harewood Road, N.E. to the east, and the Pope John Paul II Cultural Center to the north. In addition to Catholic University, also in the vicinity of the Property are the Veterans Administration Hospital and the McMillan Reservoir.

3. The University's campus, including the Property, is zoned R-5-A, except for certain areas located just south of Michigan Avenue.

4. The University is located in a primarily residential area of low- to medium-density development. Immediately surrounding the campus are many large institutional facilities, particularly houses of religious study, colleges, and hospitals, as well as some light industrial and commercial properties. The campus is divided into three (3) segments. The Main Campus, comprising 95.3 acres, contains the University's administrative, academic, and student life facilities. The South Campus, comprising 8.7 acres, is located south of Michigan Avenue and contains student housing and some support facilities. The North Campus contains 40.5 acres and is located north of Taylor Street. This area is used for recreation programs and includes an athletic center, stadium, and sports fields.

5. The architecture of the University's main campus exemplifies the historic evolution of the institution dating from before the turn of the century. A variety of architectural styles are present in a pattern of campus development that historically responded to the orientation of the perimeter streets and to the topographic high points of the campus. These include Caldwell Hall, Gibbons Hall, Maloney Hall, McMahon Hall, and Mullen Library. The historic character of select older structures is particularly impressive and helps establish a strong, pleasant University presence, especially along Michigan Avenue. The adjacent Basilica acts as a distinguished landmark for the neighborhood and campus.

Further, many original campus buildings remain prominent structures, with architectural features to be preserved and featured as strengths of the University environment.

6. The Property is designated as "institutional" and "federal" on the Generalized Land Use Map of the Land Use Element of the Comprehensive Plan.

Campus Plan

7. The Applicant secured approval for the Campus Plan in Zoning Commission Order No. 02-02 which became effective on May 23, 2003. This application is the first request for further processing under the approved 2003 - 2012 Campus Plan.

8. The Applicant proposes to add the Property to the boundaries of the campus governed by its Campus Plan and requests further processing of the amended campus plan to allow the University to construct a pavilion for outdoor performances by student groups and event field, an unpaved cross-country track, an environmental research area, two areas of spiritual repose, a maintenance, truck and material storage structure, and temporary housing units, and to renovate the existing gate house. The temporary housing units will be used during renovation of residence halls on campus. The maintenance and material storage facility will be used in part for a certified program run by the University's student government that collects and sorts glass, wood, plastic, and metal materials for recycling.

9. The proposed uses of the Property are consistent with the University's campus plan. All planned construction within the West Campus would be consistent with requirements for the Property with respect to floor area ratio, site coverage, and yard setbacks.

10. The proposed university use of the Property is not inconsistent with the Comprehensive Plan. The Property is designated as "institutional" and "federal" on the Generalized Land Use Map of the Land Use Element of the Comprehensive Plan. The Applicant's proposed further processing of the Campus Plan is consistent with the policies of the District Elements of the Comprehensive Plan, including: incorporating all land currently owned by the institution and anticipated for future use, supporting the subsequent review and further processing of university master plans, preserving and ensuring community input and the updating plans for university campuses, and promoting the continued contributions of private institutions toward the District's cultural and economic vitality.

11. The University does not seek any change to its enrollment cap or the allowable FAR, as prescribed in the 2002 Campus Plan. The approved campus plan permits a maximum density of 0.44 FAR. Prior to the acquisition of the West Campus, the University campus had a total FAR of approximately 0.36. As a result of the acquisition of the Property, a 49-acre parcel with few improvements and plans for only minimal construction, the campus density has decreased to 0.33 FAR.

12. The amendment to and further processing of the Campus Plan to allow for the development of the West Campus, as set forth in the amended Campus Plan, is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions.

a. The entire University, including the West Campus, has a unique location and low intensity of use. The generous open space and large wooded areas on the West Campus create a buffer from the surrounding properties.

b. While the University is located primarily within residential zone districts, it is surrounded by many other institutional uses, rather than single family homes. Additionally, the network of streets surrounding the campus act as a natural buffer between the entire campus and nearby property owners.

c. The Applicant does not propose any change to the current enrollment cap of 7,500 FTE students and 1,710 faculty and staff set forth in the 2002 Campus Plan. The current student enrollment for the 2004-2005 academic year is 4,710 full-time equivalent students and a headcount of 5,962 students, well below what is permitted. This number of students and faculty results in only a minimal impact on the surrounding community, and the addition of the West Campus will have no effect on the number of students enrolled at the University.

d. The traffic report conducted in preparation for the 2002 Campus Plan established that there were no adverse traffic impacts associated with the 2002 Campus Plan. As mentioned above, the addition of the West Campus will have no impact on enrollment or the number of faculty and staff. Therefore, it will not have an impact on traffic. Further, the University has no plans to build additional roads or parking lots in order to accommodate students and staff coming to and from the West Campus.

e. The University plans to use the Property for a pavilion for outdoor performances and event field, an unpaved cross-country track, an environmental research area, two (2) areas of spiritual repose, a maintenance, truck, and material storage structure, and temporary housing units. None of these uses will create objectionable noise or other conditions. The cross-county track, areas of spiritual repose, and environmental research area are inherently quiet and do not involve any buildings. The proposed temporary housing is located along Harewood Road, a significant arterial, and will be far removed from any property that is not owned by the Applicant. The maintenance, truck, and material storage structure is located in the northwestern corner of the site and adjacent to Scale Gate Road, a private street which will provide access. The pavilion is primarily an outdoor facility; however, the stage area will be a structure. The pavilion will be located along Harewood Road and will be far removed from any non-University property. Finally, the Applicant will renovate the existing gate house for administrative purposes.

13. The Commission finds that the amendment to and further processing of the Campus Plan will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map and will not affect adversely the use of neighboring properties.

14. The Applicant has remained in substantial compliance with all conditions of approval of its Campus Plan.

Report of the Office of Planning

15. By report dated March 28, 2005, and through testimony at the public hearing, the Office of Planning ("OP") recommended approval of the application. The OP report supported the amendment to and further processing of the Campus Plan. The OP report noted that (i) the density for the University campus will drop from .36 to .33 FAR, less than the maximum permitted density of .44 FAR permitted by the 2002 Campus Plan; (ii) no parking or traffic circulation problems will be created by the application; and (iii) that the vast majority of the Property will remain open space.

16. Regarding the application's satisfaction of the 11 DCMR § 210 criteria, the OP report stated that: (i) the proposed use of the Property is consistent with the surrounding area; (ii) the use of the West Campus as part of the University's campus is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions; (iii) the application proposes no increase in FAR that would exceed the FAR limitations of the 2002 Campus Plan or the R-5-A District; (iv) the application contains a plan for all present and future improvements; (v) the application does not propose interim use of land located off-campus; (vi) no major new buildings are proposed to be moved off-campus as a result of the application; (vii) District Elements within the Comprehensive Plan relevant to the subject application are satisfied; and (viii) the application was referred to OP and DDOT, but no response was received by DDOT.

17. The OP report noted that the application will contribute to achieving many of the provisions of the Comprehensive Plan including: (i) stabilizing and improving the District's neighborhoods by improving temporary student housing; (ii) preserving and promoting cultural and natural amenities by providing new opportunities for the arts with the new pavilion and amphitheater and the addition of open space; and (iii) furthering the Ward 5 plan. OP also noted that the Property is listed as "institutional" and "federal" on the Generalized Land Use Map, and it is, therefore, appropriate to use the entire parcel for the use proposed by the Applicant.

18. OP recommended approval of the application subject to the following conditions:

    a. The Applicant shall incorporate an evaluation of the historic resources on the Property into its current historic resources inventory that was developed as part of the 2002 Campus Plan;

    b. The conditions of Z.C. Case 02-20, the approval of the 2002 Campus Plan remain in force, with the exception of Conditions No. 2 and 5;

    c. Condition No. 2 of the 2002 Campus Plan shall be amended as set forth by this application to include Parcel 121/29 in Square 3663;

    d. Condition No. 6 of the 2002 Campus Plan shall be amended to permit a maximum gross floor area of 2,748,265 square feet by the year 2012; and

e. The proposed 50 to 60 beds of temporary housing are removed at the conclusion of the 2005-2006 school year.

19. By supplemental report dated April 21, 2005, OP indicated that, in response to the Commission's request for additional information regarding times of outdoor performances at the pavilion, the Applicant suggested limiting the pavilion's hours of operation to 10:00 a.m. to 10:00 p.m. daily. OP agreed with the Applicant's suggestion, noting that the pavilion is located in an area bordered by woodland, one-third of a mile from the nearest residences. According to OP, the combination of distance and existing trees would minimize any impact of the pavilion on the surrounding community.

Reports of Other Agencies

20. By memorandum dated April 13, 2005, the District Department of Transportation indicated no objection to the University's proposal.

21. The Fire and Emergency Medical Services Department had no objection to the application, provided that the proposed development has acceptable access for emergency vehicles.

22. The Department of Health had no objection but "expects [the Applicant] to comply with the District's Environmental Laws as well as federal NPDES Regulations related to MS-4 Permits for construction activities involving an acre or more of land disturbance."

Additional Testimony

23. Dino Drudi testified on behalf of Michigan Park Citizens Association in opposition to the application. Mr. Drudi expressed concern about security and indicated a need for additional permanent residence halls – rather than temporary trailers – to house students on campus.

24. James Russell, a commissioner from ANC 5C who is also a student at the University, testified in support of the application. Mr. Russell commented favorably on the Applicant's proposed use of the Property and indicated a need for additional residence halls on campus.

25. Lloyd Levermore, a resident of the 200 block of Webster Street, N.E., testified in support of the application and urged the University to partner with the community to increase recreational opportunities for area residents, particularly children and the elderly.

26. Albrette Ransom, also a resident of the 200 block of Webster Street, N.E., testified in support of the application. Ms. Ransom commented favorably on the Applicant's proposed use of the Property but expressed concern about possible noise impacts associated with music performances and the pavilion and urged the University to increase its involvement in the community.

CONCLUSIONS OF LAW

The Applicant is seeking an amendment to and further processing of its 2002 Campus Plan, pursuant to §§ 210 and 3104 of the Zoning Regulations, to allow for the addition of the Property to the campus boundaries and to allow limited construction as shown in the portion of the application governing the Property and use of the Property. The Commission is authorized to grant such relief where, in the judgment of the Commission based on a showing through substantial evidence, such amendment and further processing will be in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to adversely affect the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, subject to certain conditions specified in § 210. D.C. Official Code § 6-641.07(g)(2) (2001), 11 DCMR § 3104.1.

Based on the Findings of Fact above, the Commission approves the requested amendment to the 2002 Campus Plan to add the West Campus to the boundaries defined therein and the further processing of the 2002 Campus Plan to include the following uses on the West Campus, according to the plans submitted with the application: a pavilion for outdoor performances and event field, an unpaved cross-country track, an environmental research area, two areas of spiritual repose, a maintenance, truck and material storage structure, a renovated gate house, and temporary housing units.

The proposed uses of the Property are consistent with the Applicant's use of the Property for university purposes, and with the Zoning Regulations and Map, and will not tend to adversely affect the use of neighboring property. The Commission gives great weight to the recommendations of approval from the Office of Planning and the affected ANCs. The Commission adopts the conditions recommended by OP with the exception of allowing the temporary housing units to remain in place for a maximum of three years, rather than requiring their removal at the conclusion of the 2005-2006 academic year, so as to provide adequate time for the Applicant to renovate the residence halls on campus.

Accordingly, it is ordered that this application is **GRANTED** subject to the following conditions:

1. The Applicant shall incorporate an evaluation of the historic resources on the Property into its current historic resources inventory that was developed as part of the 2002 Campus Plan;

2. The conditions of Z.C. Case 02-20, the approval of the 2002 Campus Plan remain in force, with the exception of Conditions No. 2 and 5;

3. Condition No. 2 of the 2002 Campus Plan shall be amended as set forth by this application to include Parcel 121/29 in Square 3663;

4. Condition No. 6 of the 2002 Campus Plan shall be amended to permit a maximum gross floor area of 2,748,265 square feet by the year 2012;

5. The temporary housing units may be constructed for use in the Fall of 2006 and may remain in place for a total of three (3) academic years only; and

6. The hours of operation for performances at the pavilion shall be limited to 10:00 a.m. through 10:00 p.m. daily.

VOTE: 3-0-2 (Anthony J. Hood, Gregory N. Jeffries, and John G. Parsons to approve; Carol J. Mitten, having not participated, not voting; Kevin L. Hildebrand, not present, not voting).

BY ORDER OF THE D.C. ZONING COMMISSION
Each concurring member approved the issuance of this order.

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
DIRECTOR, OFFICE OF ZONING

FINAL DATE OF ORDER: JUL 26 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 TEN 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 COMMISSION ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE COMMISSION.

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

BASIS FOR THE REVOCATION OF THIS ORDER. OF THE D.C. CODE. SEE D.C. CODE SECTION 2-1402.67 (2001). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THE HUMAN RIGHTS ACT. THE FAILURE THE APPLICANT SHALL COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C.LAW 2-38, AS AMENDED, CODIFIED AS CHAPTER 14 IN TITLE 2 OR REFUSAL OF THE APPLICANT TO COMPLY SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER. NOTE IN SECTION 2-1401.01 OF THE D.C. HUMAN RIGHTS ACT THAT IT IS THE INTENT OF THE COUNCIL OF THE DISTRICT OF COLUMBIA, IN ENACTING THIS CHAPTER, TO SECURE AN END IN THE DISTRICT OF COLUMBIA TO DISCRIMINATION FOR ANY REASON OTHER THAN THAT OF INDIVIDUAL MERIT, INCLUDING, BUT NOT LIMITED TO, DISCRIMINATION BY REASON OF RACE, COLOR, RELIGION, NATURAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, AND PLACE OF RESIDENCE OR BUSINESS.