GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

Z.C. CASE NO.: 06-09

As Director of the Office of Zoning, I herby certify that on JUL 14 2006 copies of this Z.C. Order No. 06-09 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

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ZONING COMMISSION
District of Columbia
CASE NO. 06-09
EXHIBIT NO. 32

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

ZONING COMMISSION
District of Columbia
CASE NO.06-09
EXHIBIT NO.32

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

ZONING COMMISSION ORDER NO. 06-09
Z.C. Case No. 06-09
Howard University - Special Exception Under §§ 210 and 3104.1
for Interim Use of Property Near Campus as a Parking Lot
Square 2872, Lots 266-271, 803, 820, 822, 823 and 824
June 12, 2006

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on April 27, 2006 to consider an application from the President and Directors of Howard University (the "University" or "Applicant") requesting a special exception under § 210 of the Zoning Regulations for interim use of vacant property near the campus as a parking lot The subject property is located in an R-5-B District in Square 2872, Lots 266-271, 803, 820, 822, 823 and 824 This square is bounded by Florida Avenue, Sherman Avenue and Barry Place, N.W Pursuant to Zoning Commission Order No 932, this case was heard and decided by the Zoning Commission using Board of Zoning Adjustment ("BZA") rules for campus plan cases.

HEARING DATE: April 27, 2006

DECISION DATE: June 12, 2006

FINDINGS OF FACT

The Application, Parties and Public Hearing

1 On February 14, 2006, the University submitted an application to the Zoning Commission to request special exception approval under 11 DCMR §§ 3104 1 and 210 of the Zoning Regulations to allow the use of land in Square 2872, Lots 266-271, 803, 820, 822, 823 and 824 (the "Property") for interim university use as a parking lot Square 2872 is a triangular-shaped square bound by Florida Avenue on the west and south, Barry Place on the north, and Sherman Avenue on the east, all in Northwest

2 The Commission provided proper and timely notice of the public hearing on this application by publication in the *D C Register* and by mail to Advisory Neighborhood Commission ("ANC") 1B and to the owners of property within 200 feet The Applicant and ANC 1B are the parties in this case

3 The public hearing on the proposed interim use was held on April 27, 2006

The Application and the Applicant's Case

4 Howard University's Central Campus is located in an urban setting that includes residential, commercial, industrial and institutional uses The campus is centered on Georgia Avenue and Howard Place and is generally bounded on the north by Harvard Street, on the east by 4th Street, on the south by U and V Streets, and on the west by Georgia, Sherman and Florida Avenues, all N W

5. The proposed use is a parking lot for university use on a site that is just outside the campus plan boundaries, which end at Sherman Avenue along the east side of the Property. As to the long-term use of the site, the University is to update its campus plan by 2008 and will make a decision in that context The permanent use is likely to be academic -- instructional, residential or support services

6 The site proposed for parking lot use is an assemblage of 9,954 square feet of land area The site constitutes the majority of the property in Square 2872 The remaining buildings on part of the site were demolished in 2006 The site is essentially triangular in shape and is vacant Part of the site has been used for parking by the University in recent years

7 The immediate land use context is dominated by several large buildings and sites To the east of the site, across Sherman Avenue, are two large, high-rise apartment houses, developed and owned by the University and occupied by students and faculty To the north, across Barry Place, is a large, high-rise apartment house To the west of this apartment house, across 11th Street, is the large campus of Cardozo High School Directly to the west of the Property (across 10th Street) is the Howard University Service Center, a large, brick, industrial-type structure To the southeast, along the east frontage of Florida Avenue, is underutilized land that will be developed with University uses in the future

8 Due south of the Property are squares predominantly improved with townhouses, multi-family conversions and scattered, small nonconforming commercial uses Infill construction of mid-rise apartment buildings is also occurring on vacant lots in this vicinity

9. As depicted on the Zoning Map, the Property is within an R-5-B District that encompasses 10 or 12 city blocks to the north and west The two large apartment houses to the east of Sherman Avenue are zoned R-5-E, and CR zoning extends to the south of these in the area formerly zoned light industrial To the south, beyond the R-5-B zoning, is an area zoned Uptown Arts-Mixed Use (ARTS)/C-2-B

10 The proposed parking lot will have 23 spaces and will be accessed from Florida Avenue The parking lot will be surrounded by an ornamental metal fence with brick piers The plans include new landscaped areas oriented to the corners of the site at Sherman Avenue and Barry Place and at Florida Avenue and Barry Place The surface will be bituminous concrete, with yellow striping and concrete wheel stops

11 The lot will primarily serve Howard University service personnel and faculty members, who will be able to park and walk across the street to the west to the University's Service Building or two or three blocks to the east to buildings on the Main Campus of Howard University Parking will be monitored frequently by campus parking personnel who travel from parking lot to parking lot ticketing cars that do not have permits to park on the lots The lot will be open from 7.30 a m to 5 30 p m.

12. The Commission credits the Applicant's testimony that the proposed parking lot will not become objectionable to adjoining or nearby property, and will be in harmony with the intent of the Zoning Regulations and Map, for the following reasons

a) Vehicular entry to and egress from the parking lot will be from Florida Avenue, an arterial street

b) The apartment buildings, to the north and east, and nearby row dwellings, are across city streets and have ample separation from the parking use so as to avoid any adverse traffic or noise effects

c) The parking lot will be open only in daytime hours, from 7:30 a.m. to 5.30 p m , and thus residential neighbors will not be affected by headlights in the evening hours

d) The accessory parking will be surrounded by an attractive fence and will have landscaped areas to improve the aesthetics of the use.

e) The parking spaces will serve only staff and faculty of Howard University, which is located immediately to the east of the proposed parking lot Most of these persons will tend to park and stay a number of hours at the University, thus resulting in only moderate amounts of in-and-out vehicular traffic

f) The immediate proximity to the University makes for an efficient land use pattern, in that the users can walk to the campus, in keeping with the general intent of the Zoning Regulations to allow interim university use near a campus as a special exception.

g) In-and-out traffic from the parking lot will generally be less than that created by a building on the same property

h) At 23 spaces, the parking lot is not large, and will accordingly create only a moderate amount of traffic All in all, the lot will not create any noticeable traffic safety or traffic noise effects

13 The Applicant also documented compliance with the physical standards for parking lots set forth in § 2303 of the Zoning Regulations, including surface materials, lighting, landscaping, maintenance and exclusive use as parking lot

Report of the Office of Planning

14. By report dated April 20, 2006 and by testimony at the public hearing, the Office of Planning ("OP") indicated that the application generally met the requirements of the special exception OP requested documentation that the landscaped area would exceed five percent (5%) of the site and resolution of issues with the District Department of Transportation ("DDOT") regarding DDOT's Bryant Street extension proposal.

15 In a supplemental report dated April 25, 2006, OP reported on a meeting that took place on April 21, 2006 between the University, DDOT and OP representatives This report stated that DDOT's Bryant Street extension, if it occurs, will not impact the location of the proposed interim parking lot OP recommended a five-year approval period, recognizing the time required for adoption of the 2008 campus plan, followed by design and further processing of the specific permanent use approved in the campus plan

Report of the District Department of Transportation

16 DDOT initially recommended denial of the application based on the likelihood that the proposed extension of Bryant Street from Georgia Avenue to Florida Avenue would adversely affect traffic conditions at the interim parking site After the meeting of April 21, 2006, DDOT agreed that the point of intersection with Florida Avenue would not affect access and egress to the proposed parking lot. DDOT also recommended maintaining the current 90-degree driveway angle relative to Florida Avenue In post-hearing consultations with the Applicant, DDOT confirmed that the plans utilized the existing 90-degree driveway access and would continue this general configuration.

Report of Advisory Neighborhood Commission 1B

17. Advisory Neighborhood Commission 1B recommended denial of the application The ANC had expected to have advance notification from the University of the demolition of remaining buildings on the Property One of the commissioners expressed concerns that the parking lot would be adverse to residents of row dwellings across Florida Avenue and concerns that the use might stay in place too long

Other Community Organizations

18 The representative of the Cardozo Shaw Neighborhood Association testified in opposition to parking use of the site for environmental, pedestrian safety and land use reasons

19 In addition to the meeting with DDOT and OP referenced above, the Applicant met twice with members of ANC 1B and the Cardozo Shaw Neighborhood Association

20 In a post-hearing report dated May 26, 2006, the Applicant summarized the results of the meetings First, the participants fully reviewed the University's transportation management plan, which has been enhanced with features such as car-sharing stations (e g for ZipCar and FlexCar), higher prices for parking on campus, free shuttle bus

services, telecommuting, Smart Cards and shared parking Regarding the interim parking lot, the University agreed to use high-quality fencing, plant materials and lighting and to actively promote public safety at the site The University also agreed to a five-year time limit on the interim parking lot use

CONCLUSIONS OF LAW

The University is seeking a special exception pursuant to §§ 3104 1 and 210 of the Zoning Regulations for approval of the interim use of the subject property, located near its main campus, as a university parking lot Section 210 of the Zoning Regulations allows college or university use by special exception in Residence zones The Commission may permit the interim use of land or improved property, within a reasonable distance of the university campus, "with any use that the Commission may determine is a proper college or university function," provided that the university use is "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, 210 5 Pursuant to § 3104 1 of the Zoning Regulations, a special exception may be approved when " . the special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property "

Based on the above Findings of Fact and having given great weight to OP and to the issues and concerns of the affected ANC, the Commission concludes that the Applicant has satisfied the burden of proof and that the application should be granted The Commission credited the unique vantage point held by the ANC with respect to the effect of the requested special exception on its constituents However, the Commission was not persuaded by the ANC that the interim use of the property as a university parking lot, subject to the conditions adopted in this Order, would create safety concerns or other adverse impacts on the use of nearby property. The Commission concludes that interim use of the subject property as a university parking lot is not likely to become objectionable to neighboring property and will not tend to affect adversely the use of neighboring property, but will be in harmony with the general purpose and intent of the Zoning Regulations and Map The five-year limit on approval of the requested special exception will ensure that the subject property will not remain a parking lot indefinitely and will encourage the University to consider the future redevelopment of the subject property in the context of the University's new campus plan, which is expected to be drafted in 2008

At a public meeting on June 12, 2006, the Commission voted to approve the application, with conditions proposed by the University, by a vote of 5-0-0 (Carol J Mitten, Anthony J Hood, Gregory N Jeffries, John G Parsons, and Michael Turnbull to approve)

For the reasons stated above, the Commission concludes that the Applicant has satisfied the burden of proof with respect to the application for a special exception for the interim use, as a university parking lot, of property located near the campus at Square 2872, Lots 266-271, 803, 820, 822, 823 and 824 Accordingly, it is therefore **ORDERED** that the application is **GRANTED** subject to **CONDITIONS**

1 Approval shall be granted for a period of five years from the effective date of this Order

2 The University shall use high-quality fencing and plant materials to create an attractive site viewed from the street and a defined edge between the property and the sidewalk. The University shall use landscaping, structures and lighting to improve safety and shall use best practices in "crime prevention through environmental design"

3 The University shall use the driveway width that currently exists and follow the requirements established by the District Department of Transportation

4 The University shall ensure that any lighting or activity associated with the interim parking use shall not disturb adjacent residents with excessive noise, traffic, spillover lighting or other disturbances

VOTE 5-0-0 (Carol J Mitten, Anthony J Hood, Gregory N Jeffries, Michael G Turnbull, and John G Parsons to approve).

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 12 2006

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 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD

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

THE APPLICANT 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 , (THE "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 THAT 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.