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March 1, 2007

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By Hand Delivery

Ms. Sharon Schellin  
Office of Zoning Administrator  
441 4th Street, Room 210  
Washington, DC 20001

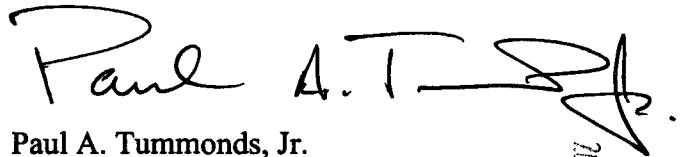
**Re: Pre-Hearing Statement for American University's Special Exception  
for Further Processing of an Approved Campus Plan**

Dear Ms. Schellin:

Please accept for filing this Pre-Hearing Statement for special exception approval for further processing of the American University Campus Plan. The proposed further processing application seeks permission to renovate the existing McKinley Building so it may become the new home for American University's School of Communication.

If you have any questions, please do not hesitate to contact the undersigned.

Sincerely yours,



Paul A. Tummonds, Jr.

Enclosures

cc: Jorge Abud  
David Taylor

ZONING COMMISSION  
District of Columbia

CASE NO. 06-43

EXHIBIT NO. 10

400535913v1

ZONING COMMISSION  
District of Columbia

CASE NO. 06-43  
EXHIBIT NO. 10  
# 06-43

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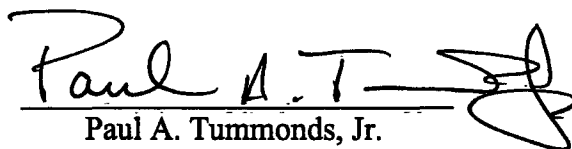
CERTIFICATE OF SERVICE

I hereby certify that on March 1, 2007 a copy of this Pre-Hearing Statement  
was served by hand and/or by U.S. Mail on the following:

Tom Smith  
Advisory Neighborhood Commission  
4601 Tilden Street, NW  
Washington, DC 20016

Stephen Mordfin  
DC Office of Planning  
801 N. Capitol Street, NE, 4<sup>th</sup> Floor  
Washington, DC 20001

Jeff Jennings  
DC Department of Transportation  
2000 14th Street, NW, 7<sup>th</sup> Floor  
Washington, DC 20009

  
Paul A. Tummonds, Jr.

**BEFORE THE ZONING COMMISSION  
OF THE DISTRICT OF COLUMBIA**

**Application of American University  
Campus Plan Further Processing Application for  
an Addition to the McKinley School of Communication**

**Z.C. Case No. 06-43  
ANC 3D  
Public Hearing: March 15,  
2007**

**STATEMENT OF THE APPLICANT**

**I. NATURE OF RELIEF SOUGHT**

Pursuant to 11 DCMR §3104 and in accordance with §210 of the Zoning Regulations, American University (hereinafter “AU” or “**Applicant**”) requests special exception approval for the further processing of an approved Campus Plan to permit the renovation of the existing McKinley Building. The building currently houses the department of Computer Science, Audio Technology, and Physics, as well as some offices for other academic units. This proposed renovation will allow the McKinley Building to become the new home to the School of Communication. The renovation will include the demolition and rebuilding of a portion of the building which is wood frame and whose floors do not align with the rest of the building. It also includes the expansion of the building, primarily underground. The entire proposed renovation will result in approximately 3,152 square feet of new gross floor area.

No variances are requested in this application, and the requested special exception relief fully meets the requirements of the Zoning Regulations.

**II. HISTORY AND STATUS OF THE CAMPUS PLAN**

AU submitted its proposed Campus Plan for the period 2000 through 2011 (the “**Campus Plan**”) to the DC Board of Zoning Adjustment on August 24, 2000. Thereafter, responsibility for the review and approval of campus plans and further processing applications was transferred

to the DC Zoning Commission (“**Commission**”). The Zoning Commission approved the Campus Plan and three further processing applications (the construction of the Katzen Arts Center, an addition to the Mary Graydon Center, and the enclosure of the campus road under Butler Pavilion) on January 8, 2002 pursuant to Z.C. Order No. 949. On April 30, 2002, the Zoning Commission issued Order No. 949-A (the “**Order**”) which restated the Commission’s intent that the bleacher seats approved in the Campus Plan were to face the athletic fields, and adopted a new condition of approval that included certain commitments of AU that were offered during the public hearing process that were not included in Order No. 949. On October 17, 2005, the Zoning Commission issued Order No. 949-B which reaffirmed its decision in Z.C. Order No. 949 Z.C. and Order No. 949-A not to adopt the recommendations of ANCs 3D and 3E to require the University to use parking stickers as part of its off-campus parking enforcement program.

### **III. REQUESTED SPECIAL EXCEPTION - PROPOSED RENOVATION OF THE MCKINLEY BUILDING**

AU plans to renovate the McKinley Building so it may house the School of Communication. The three nationally recognized academic programs that make up the School of Communication are Journalism, Public Communication and Film and Media Arts and each program shares, almost equally, approximately 900 undergraduate majors and 300 graduate students enrolled in the school. These programs are currently located among three non-contiguous buildings on the AU campus. The requested further processing approval will allow students, faculty, and staff of the School of Communication to be in one central area. This will provide flexible and contiguous space for faculty and staff offices; seminar rooms and classrooms; and specialized production, research, and office space. No increase in student enrollment or faculty levels are expected as a result of this application.

In addition, the renovation is needed to meet the needs of the academic programs, including a soundstage for film, video and photography production, a converged newsroom, machine and storage room, and a green room to accompany the newsroom (the “**Project**”). A map of the AU Campus (showing the location of the McKinley Building), plans, and elevations of the Project are attached as Exhibit A. The Project will add approximately 3,152 square feet of new gross floor area to the existing structure. Essential to the renovation of the McKinley Building will be the blending of two overriding themes: honoring education through preservation of the building’s magnificent historical façade and celebrating free expression – past and future – through a renovation providing light, transparency, and openness that supports creative and productive activity. Given the speed and unpredictability with which technology changes, all classrooms, studios, offices, and labs will be designed with maximum flexibility in mind, so that new technology can be quickly and effectively incorporated with minimal cost and renovation. In addition, a new entrance will be created so that students will be able to access the new School of Communication through the Friedheim quad.

#### **IV. COMPLIANCE WITH THE REQUIREMENTS OF §210**

In all respects, the requested special exception fully complies with §210 of the Zoning Regulations. The specific zoning requirements are addressed in detail below.

##### **A. College or University Which is an Academic Institution of Higher Learning (Subsection 210.1)**

AU was chartered by an Act of Congress in 1893 and founded under the auspices of the United Methodist Church. AU’s use of the property qualifies as a college or university use in accordance with §210 of the Zoning Regulations.

**B. The Use is Located so that it is Not Likely to Become Objectionable to Neighboring Property (Subsection 210.2)**

The Project is a renovation and addition that will have virtually no impact on neighboring properties and will not cause objectionable noise, traffic, number of students, or other objectionable conditions. The Project will add only 3,152 square feet of new gross floor area to the overall Campus Plan by renovating the existing McKinley Building to include additional public, educational, student, faculty and administrative space. Furthermore, it will be used by existing AU students, and will not generate a significant amount of traffic. It will generate no additional noise. No other changes to existing campus uses or facilities or to the campus boundaries are proposed, nor is AU proposing any changes to its enrollment or staff numbers.

**C. Compliance with the Maximum Bulk Requirements (Subsection 210.3)**

AU's overall campus FAR is 0.56, which is well below the 1.8 FAR permitted under the Zoning Regulations. It should be noted that since the AU Campus Plan was approved, AU has added a net of approximately 64,305 square feet of academic/administrative space as a result of the demolition of several facilities and the construction of the Katzen Arts Center. The previously approved additions to the Mary Graydon Center, addition to the Kogod School of Business and the construction of the new School of International Service will add another 107,573 square feet, when completed. If these projects are constructed to their approved area, the total net increase would be 171,878 square feet of gross floor area.

During the preparation of this application, the Applicant became aware that the Campus Plan's calculation of the existing FAR does not include the McKinley Building's attic. The existing attic accounts for 9,695 square feet of gross floor area of the McKinley Building. Therefore, even with the addition of 12,847 (3,152 + 9,695) square feet of gross floor area to the campus, the total FAR of the campus will be 0.59.

**D. Submission of a Plan for Developing the Campus as a Whole  
(Subsection 210.4)**

As noted above, AU's Campus Plan was approved by the Zoning Commission on January 8, 2002, April 30, 2002, and October 17, 2005. No changes to the Campus Plan are proposed as part of this special exception application.

**E. No Interim Use of Land is Proposed (Subsection 210.5)**

No interim use of land is requested as part of this campus plan.

**F. No New Use Sought for Approved Site of Buildings Moved Off  
Campus (Subsection 210.6)**

AU does not seek approval for any use of a previously approved building site and thus complies with this section.

**G. Compliance with the Policies of the District Elements of the  
Comprehensive Plan (Subsection 210.7)**

The Project is not inconsistent with the policies of the District Elements of the Comprehensive Plan. The Project will further the goals and objectives of the Ward 3 Element of the Comprehensive Plan by enhancing educational facilities in the Ward without adversely impacting adjacent residential areas.

**H. The Proposed Buildings Are within the Floor Area Limit for the  
Campus as a Whole (Subsection 210.8)**

The approved Campus Plan FAR of 0.59 is within the permitted 1.8 FAR prescribed for the residentially zoned campus. As noted above, the additional square footage proposed by this application will have a negligible effect on the overall FAR for the campus.

**I. Referral to the District of Columbia Office of Planning and the  
District of Columbia Department of Public Works (Subsection 210.9)**

This application has been referred to the Office of Planning and the District Department of Transportation ("DDOT"). Representatives of the Applicant have met with members of the

Office of Planning staff to review this project, and have discussed this project with DDOT staff.

#### **V. COMPLIANCE WITH ZONING COMMISSION ORDER NO. 949-B**

Condition No. 17 of Order No. 949 provides, in part:

No special exception application filed by the University for further processing under this plan may be granted unless the University proves that it has consistently remained in substantial compliance with Conditions 1 through 16 set forth in this Order.

As set forth below, AU has consistently remained in substantial compliance with these conditions.

**Condition No. 1 – Approval of the Campus Plan shall be until August 15, 2011.**

The approved Campus Plan is still in effect.

**Condition No. 2 – The approved Campus Plan boundary shall be as shown in the approved Campus Plan.**

The proposed special exception application does not seek any amendment to the approved Campus Plan boundaries.

**Condition No. 3 – The maximum student enrollment (headcount) shall not exceed 10,600 students and the full-time equivalent shall not exceed 9,250 students. The number of employees shall not exceed 2,200.**

Student enrollment headcount as of Fall of 2006 was 9,805 and 8,707 full time equivalent. The faculty and staff population headcount is 1,662.

**Condition No. 4 – AU shall maintain a supply of on-campus housing sufficient to make housing available for 85% of its full-time freshman and sophomore students (headcount) and for two-thirds of all full-time undergraduates (headcount).**

As shown in Exhibit B, AU currently has an on-campus housing supply of approximately 3,700 student beds. In the Fall of 2006, AU enrolled 2,990 full-time freshman and sophomore students and 5,530 full-time undergraduates. AU therefore has on-campus housing available for 142% of its freshmen and sophomores and 77% of all undergraduates. AU has for many years



been able to provide housing for all undergraduate students that requested housing. This has been accomplished by converting double rooms to triple rooms in dormitories on campus, when necessary. In 2002, AU entered into a long-term lease of the Park Bethesda apartment building for use as student housing. Park Bethesda is located at 5325 Westbard Avenue in Bethesda, Maryland – approximately 2 miles from the AU main campus. Park Bethesda provides approximately 580 beds for primarily juniors and seniors but student demand for this building has been low. As a result, AU is reducing its use of this building for student housing and will not be relying on Park Bethesda to fill its housing needs in the future. In Fall 2007, Nebraska Hall, a newly renovated building will provide 113 additional on-campus beds. As a result, the Applicant will have housing available for all freshman and sophomores and 68% of full-time undergraduates. Therefore, the Applicant is in compliance with this condition.

**Condition No. 5 – Campus Facilities built for instructional purposes may, from time to time, be used for conferences.**

AU presents several high profile public programs, networking receptions, and alumni events each year, from American Forums and Center for Social Media events, to screening and presentation in the Wechsler Theater, to gallery exhibits of student and faculty work. The renovation of the McKinley Building will remain flexible to accommodate these events. These special programs will remain important to AU, as outlets to faculty for research and scholarly and professional development, as conduits for public service to the various disciplines, and as vehicles for public outreach and development of AU's reputation and standing within the media community.

**Condition No. 6 – The University shall work with community representatives to form a Liaison Committee for the purpose of fostering consistent on-going communication between the University and the surrounding neighborhoods.**

Since the adoption of the Campus Plan, the Applicant has held quarterly meetings with

the Neighborhood Liaison Committee. In the last year, the meetings took place on January 25, 2007; September 21, 2006; April 25, 2006; January 23, 2006; and September 27, 2005.

**Condition No. 7 – The University shall adopt a program regarding enforcement of student, faculty, staff and vendor off-campus parking.**

AU has adopted the required program regarding enforcement of student, faculty, staff, and vendor off-campus parking.

**Condition No. 8 – The Applicant shall designate at least 12 of the 76 existing parking spaces at the Tenley Campus for student use.**

AU has designated 12 of the 76 existing parking spaces at the Tenley Campus for student use.

**Condition No. 9 – The Applicant shall submit each individual request to construct a building described in the Campus Plan to the Zoning Commission as a special exception. The University shall submit information as to how the structure complies with the Plan, an updated traffic analysis, a report indicating the supply of on-campus housing, the number of undergraduate students, and the number of full-time freshman and sophomore students.**

The Applicant has submitted the present request to construct the Project to the Zoning Commission as a special exception. The Campus Plan designates the use of the McKinley building as academic/administrative space. The Project is consistent with this use of the building. Due to the small amount of gross floor area that is included in this Project and the fact that there will be no additional students or faculty added as a result of this project, the Applicant does not believe that is necessary to prepare a comprehensive traffic analysis for this application as there will be no additional traffic created by the Project. HNTB Corporation (“HNTB”), the Applicant’s transportation consultant, has reviewed the analysis it prepared in 2004, in connection with the approval of the School of International Service Building, and provided an opinion that this Project will not have a perceptible impact on traffic. The Applicant expects to submit HNTB’s written conclusion to DDOT and the Zoning Commission prior to the public

hearing in this case. The issue of housing supplied by the Applicant for its undergraduate students, and the number of undergraduate students (including freshman and sophomore students) is addressed above and in Exhibit B.

**Condition No. 10 – The Applicant shall not construct more than 400,000 square feet of new gross floor area during the term of this Campus Plan.**

As previously noted, a net of approximately 171,878 square feet of new gross floor area has been added or approved for addition to the Campus since 2000. This renovation consists of only 3,152 square feet of new gross floor area. AU is also willing to count the McKinley Building attic area towards the 400,000 square foot cap. Therefore, with the approval of this application, AU will have requested approval of 184,725 square feet of gross floor area, well within the 400,000 square feet of new gross floor area permitted during the term of this Campus Plan.

**Condition No. 11 – The University shall implement its “Neighborhood Action Program” to address off-campus conduct by students living in neighborhoods adjacent to the campus.**

AU has implemented its Neighborhood Action Program (Exhibit C) to address off-campus conduct by students living in neighborhoods adjacent to the campus. The Applicant has reported its actions regarding off-campus student behavior at its periodic Neighborhood Liaison Committee meetings. In January of 2007, AU received reports of inappropriate student behavior at two houses on Windom Place. The Applicant has met with the students involved and is addressing the issue in accordance with the Neighborhood Action Program. This incident, however, pointed out the need to strengthen the communication with neighboring residents on how to report suspected student behavior issues to AU, in particular for areas outside the Advisory Neighborhood Commission (“ANC”) areas closest to the AU campus. The Applicant, neighboring ANCs, and interested neighbors will be working to enhance the communication

process, so that neighbors know how to access the Applicant's program.

**Condition No. 12** – The Applicant shall direct its students to register their vehicles in the District of Columbia, or obtain a reciprocity sticker if eligible to do so. The Applicant shall withhold parking privileges from students who do not comply with D.C. registration requirements.

AU has complied with this requirement.

**Condition No. 13** – The University shall adopt a Campus Lighting Plan.

AU has adopted and followed the approved Campus Lighting Plan.

**Condition No. 14** – The University shall implement a Campus Landscape Plan that includes landscaping the interior ring road and the Katzen Arts Center. The University shall maintain all of the landscaped areas.

AU has implemented and followed the approved Campus Landscape Plan and all landscaping has been well-maintained to present an attractive and healthy appearance.

**Condition No. 15** – Special Events held on the University's athletic fields on the western edge of the campus are subject to certain conditions.

The University has complied with all requirements for special events on the athletic fields. There has been only one special event each year in 2004, 2005, and 2006.

**Condition No. 16** – The University shall provide notification to the D.C. Department of Health, the Army Corps of Engineers (Baltimore Office), and the U.S. Environmental Protection Agency, Region 3 each time that the University files a permit application for ground clearance, excavation, or other major construction that would implicate remedial work performed at or around the campus by the Army Corps of Engineers.

The University has satisfied this condition and will make the appropriate notifications for this project.

## **VI. COMMUNITY OUTREACH**

The University has continued to actively engage in dialogue with members of the adjacent community and the ANC regarding the proposed changes to the McKinley Building. Representatives of the University made presentations to ANC 3D on January 10, 2007 and February 7, 2007 regarding this application.

On February 7, 2007, ANC 3D adopted a resolution (attached as Exhibit D) in support of the application with the following conditions.

1. The American University be required to document as part of its application how it plans to make housing available for 85 percent of its full-time freshman and sophomore students and for two-thirds of all full-time undergraduate students as required under Condition No. 4 of the Zoning Commission's Order No. 949-B;

Attached Exhibit B documents the 2006 percentages for compliance with requirements under Condition No. 4 of Z.C. Order No. 949-B.

2. The American University will agree to expand its Liaison Committee to include neighborhoods represented by ANC's 3C and 3F (to include neighborhood groups, individuals, and ANC Commissioners from those affected areas) whose communities now border an expanding University campus;

The Applicant has consistently sought and welcomes input from the neighboring ANCs and neighborhood organizations when inviting representatives to be a part of its Neighborhood Liaison Committee.

Consistent with that practice, the Applicant agrees to expand the Liaison Committee to include the Chairpersons of both ANC 3C and 3F and to seek input on which additional community organizations should be represented at this group. This will be effective for the next Liaison Committee Meeting, expected to occur in late spring, 2007.

3. American University be required to complete a new traffic analysis that takes into account use of the new McKinley auditorium and document that the McKinley renovation will not have a significant impact on traffic as required under Condition No. 9 of the Zoning Commission's Order No. 949-B;

Due to the small size of the addition to the McKinley building, the size of the proposed theater (approx. 200 seats – replacing a theater in the Mary

Graydon Center that included 100 seats), the relocation of existing uses and programs from other buildings on the Main Campus, and the fact that no increase in the number of students or faculty is proposed as a result of this project, the Applicant does not believe that it is necessary to undertake a comprehensive traffic analysis for this application.

HNTB, the Applicant's transportation consultant has reviewed the analysis it prepared in 2004, in connection with the approval of the School of International Service Building, and provided an opinion about potential traffic impacts of this project. HNTB has concluded that a new traffic analysis is unwarranted because of the effects of the Project will be minimal. A copy of this written analysis will be submitted to DDOT and the Zoning Commission prior to the public hearing in this case.

4. The American University be required – in cooperation with affected ANC's and neighborhood groups – to develop an action plan in writing – agreed to by the University, the affected ANC's, and the neighborhood groups – outlining strategies and processes to address disruptive off-campus conduct by students living in neighborhoods adjacent to the campus; and that

The Applicant has an action plan in place (see Exhibit C), which has proved effective in addressing off-campus student behavior. AU will work with affected ANCs and neighborhood groups to continue to improve the effectiveness of the plan and to improve communication about the plan.

5. The American University be required to develop a policy outlining how it will shut down fraternities that violate local zoning or other regulations and implement that policy.

The Applicant provides fraternities opportunities for activity and living space within its residence halls. There are no off-campus fraternity houses sanctioned by AU or the fraternities' respective national organizations.

The off-campus conduct of students who are members of fraternities is addressed by the Neighborhood Action Program. AU will help neighboring residents report violations to the appropriate District of Columbia authorities.

#### **VII. WITNESS**

The following witnesses are expected to testify at the public hearing on behalf of the Applicant:

- 1) David Taylor; Chief of Staff to the President, American University;
- 2) Jorge Abud; Assistant Vice President of Facilities and Administrative Services, American University; and
- 3) Paul R. Lund; Principal, Bowie Gridley Architects.

#### **VIII. EXHIBITS**

- Exhibit A: Campus Map and Plans/Elevations of the Project.
- Exhibit B: Chart Depicting Satisfaction of Housing Requirements in Order No. 949.
- Exhibit C: Neighborhood Action Program.
- Exhibit D: ANC Resolution Concerning Case No. 06-43.
- Exhibit E: Outlines of Witness Testimony.

## **IX. CONCLUSION**

For the reasons stated above, this application meets the special exception requirements and carries out the city's and the community's objectives for AU's campus. Accordingly, it is respectfully requested that the Commission approve the special exception application.

Respectfully submitted,

PILLSBURY WINTHROP SHAW PITTMAN, LLP

By Paul A. Tummonds, Jr.  
Paul A. Tummonds, Jr.

By Kate Myers  
Kate Myers

Land Use Counsel for American University