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December 9, 2008

Anthony Hood, Chairman
District of Columbia Zoning Commission
One Judiciary Square
441 Fourth Street NW
Suite 210
Washington, DC 20001

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Re: Case No. 08-06-7 (Comprehensive Zoning Regulations Rewrite: Campus/Institutional)

Dear Mr. Hood:

This letter is in lieu of testimony at the December 11 public hearing before the Zoning Commission for the District of Columbia considering general recommendations from the Office of Planning (OP) for changes to the zoning regulations in relation to the regulation of institutional uses in residential zones. Please include this letter as part of the record of the December 11 hearing.

We represent ANC 3D-02 and ANC 3D-03. ANC 3D-02 comprises four communities that are significantly impacted by American University and which have a strong interest in the Campus Master Plan process. This district includes the eastern part of Spring Valley that directly abuts the American University campus; the western section of Westover Place that also directly abuts the University; the Wesley Theological Seminary campus which abuts both American University and the Spring Valley residential neighborhood; and part of the University campus, itself. ANC 3D-03 represents the remainder of Spring Valley and also directly abuts the American University campus.

Residents of these SMDs have played a leading role over the years in working with the American University to develop campus master plans; participate actively in the second stage review process; and work routinely on a range of residential issues prompted by the presence, expansion, and growth of the university over the years. These issues of major concern include traffic, noise, parking, streetscape planning, student housing, student-related crime, and off campus student behavior.

Although there is much to applaud in the general recommendations made by the Office of Planning to guide the development of new zoning regulations pertaining to institutional uses in residential communities, there are three specific recommendations that raise critical concerns

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among residents in ANC 3D-02 and ANC 3D-03 who live so closely to a large academic institution/campus, like American University.

Specifically, the residents of ANC 3D-02 and ANC 3D-03 are seriously concerned about the following recommendations by OP:

- Recommendation #1: “All institutional uses should be subject to the same regulatory structure with requirements divided by the size and impact of the use rather than the type of use;”
- Recommendation #3 which recommends that the student and faculty “cap” placed on colleges and universities through the campus plan process be changed to a “student/employee count;” and
- Recommendation #4 which proposes significant changes in the Campus Master Plan second stage review process.

These general recommendations, if approved for the purposes of drafting regulations, will inhibit the ability of residential communities, like Spring Valley and Westover Place, to play an effective role in the Campus Master Plan process; create additional tensions and conflicts between the university and the nearby residential communities; and deny the community the leverage it needs to ensure that growth and other campus-related issues/activities do not impose new burdens on nearby residents and depress property values.

1. Recommendation #1: “All institutional uses should be subject to the same regulatory structure with requirements divided by the size and impact of the use rather than the type of use.”

OP’s suggestion that all institutional uses should be subject to the same regulatory structure without regard to the nature of the institution and its mission is somewhat naïve. This recommendation seems to be based on a faulty perception that the size of an institution alone is how the institution’s impact on a neighborhood should be measured. Certainly, there will be some impacts related to size that will not vary by the type of institution, but the mission of the institution also will create very unique impacts for neighborhoods as well.

Specifically, for our neighborhood, the OP recommendations would equate the impact of a university campus with a hospital campus. But, the reality for our neighborhood is that a large academic institution, like American University, creates a different and unique set of problems for a community than a hospital, such as Sibley, which is also located near our neighborhood.

For example, noise issues related to the use of fields for varsity sports at American University are a concern for residents of ANC 3D-02 and ANC 3D-03 . Off campus housing and student behavioral issues are a concern unique to living in close proximity to a university campus. Parking issues also are different for neighborhoods near universities in that students – by virtue of age and income limits – are more likely to seek parking on neighborhood streets and walk longer distances to attend classes or other university functions. A university, like American University, also has a vigorous program of lectures, concerts, sporting events, and other special

events that attract large crowds from outside the neighborhood creating special traffic and parking challenges.

Such events are an inherent part of a university setting. They can enhance the community, but they also bring a unique set of challenges for adjacent neighborhoods.

Neighbors in our ANCs also have complained about congestion stemming from delivery trucks – the number and type of which also would vary by institution. For example, American University has retail stores on its campus, including a McDonalds fast food restaurant, that would be unlikely to be hosted on a hospital or other non-university institutional campus.

In other words, the mission of American University as an educational institution creates a demand for services on campus that affects the neighborhood in ways that are unique. The impact on the neighborhood is not only a factor of the size of the institution. Zoning regulations related to the development of master plans should recognize the diverse impacts that institutions create for neighborhoods instead of trying to establish a generic approach or even a false and unreal lowest common denominator as this OP recommendation seems to suggest.

It seems also clear that this recommendation – that focuses excessively on size as the major factor in the Campus Master Plan process – is also driving another recommendation by OP that would essentially gut the second stage review process that is so critical for protection of residents' interests.

In short, universities have unique impacts on neighborhoods that are driven by the mission of the university in addition to its size. DC Zoning regulations should recognize and reflect this reality.

2. Recommendation #3: Recommending that the student and faculty “cap” placed on colleges and universities through the campus plan process be changed to a “student/employee count.”

OP offers no explanation or rationale for this recommendation in any of its publicly released materials. This causes even greater concern about the impact of new zoning regulations that would prevent the imposition of student and faculty caps as part of the Campus Master Plan process. Caps are an essential part of controlling the growth and intrusion of the university on our city's neighborhoods.

With increasing economic challenges, universities, like American University, will have additional incentives to increase the number of students enrolled on campus. Neighborhoods have a right to know how the university plans to control and limit growth so as not to overburden the city infrastructure that is shared by the university and the nearby residential neighborhoods. Student and faculty caps are the most fundamental and effective means to limit the diverse – and often adverse – impacts that result from the presence of tens of thousands of students, faculty, administrators, and visitors in the midst of a quiet residential neighborhood.

Neighborhoods adjacent to universities are experiencing increasing pressures as a result of university growth and expansion over the last ten years. For example, we are losing housing

stock as universities purchase properties for use – sometimes to house guest faculty, as an additional source of income, or even perhaps for future development.

The cap is the single most effective control for neighborhoods to limit the growth of the university, control its intrusion on the neighborhood, and limit its impact on the deteriorating city infrastructure, including streets, sidewalks, and traffic systems.

Caps are also a critical way to measure the availability of on-campus student housing and to enforce requirements that universities provide adequate housing on campus.

A cap connotes a limit to growth; a count, on the other hand, is no more than an informational tool that is not an effective way to drive planning or protect neighborhoods.

3. Recommendation #4 proposes significant changes in the Campus Master Plan second stage review process.

According to OP's recommendation, the Campus Master Plan requirements "should contain a threshold structure for when second stage review is required within campus plans" and then quantifies this threshold by saying that addition or use changes not anticipated in the plan would only require an "update" if they contain less than 3,500 square feet of GFA and that additions or use changes anticipated in the plan would be able to proceed as a matter of right if the additions are less than 20,000 square feet and use changes fall below 50,000 square feet.

If implemented as part of DC Zoning regulations, the concept of the threshold recommended by OP would again further limit the ability of residential neighborhoods to protect against and compensate for the adverse impacts of unlimited growth by universities. Moreover, this would deny communities effective opportunities to monitor and enforce agreements made between the university and residential communities as part of the Campus Master Planning process.

Even an unanticipated change of 3,500 square feet of GFA can have a significant impact on a neighborhood depending on where the change is to be made and the precise uses resulting from the change. By virtue of its recommendation, OP has assumed that a university or other institution would only make such a change in an existing building and that such a change will have no impact on that building's use. That is simply an assumption that should not be made.

Moreover, requiring a university to seek second stage review for such a change provides the neighborhood with the necessary leverage to ensure that the university is meeting all the requirements of its Master Plan. We had one such experience nearly two years ago with American University. At that time, AU proposed a small addition to the McKinley Building that involved less than 3,500 square feet of GFA. Also, at that time, there were serious student behavioral problems at several sites in the neighborhood where students were housed off-campus. The AU Campus Plan required the university to intervene in such instances, but it consistently had failed to do so.

Because the university was required to seek second stage review for even this minor change in the campus plan for the McKinley Building, it faced the prospect that its non-compliance with existing plan requirements would be raised by the community in several forums, including ANC 3D, and would be brought to the Zoning Commission's attention. Thus, the community

had some additional leverage to encourage the university to meet its obligations under the existing campus plan for controlling student behavior off campus.

As a result of residents' involvement in the second stage review process, the university was motivated to address these student behavioral issues that created serious disruptions in the community. In this instance, the second stage review offered other benefits for the university and the community. (Residents had been shocked to learn that the University had no system in place to track the addresses for full time undergraduate students living off campus.) As a result of the dialogue with the community prompted by the second stage review process, University administrators finally agreed, as of September, 2008, to require students living off campus to share their off campus addresses with the University.

This is a change that has implications far beyond student behavioral issues. It is sound policy and in the best interest of the university and its students. But, this change was prompted by residents – not by the university, itself – and made possible by the second stage review of campus plans mandated by Section 210.4 of the DC Zoning Regulations.

The same rationale applies for review of anticipated changes for additions not exceeding 20,000 square feet and changes in use for space not exceeding 50,000 square feet. Although OP's recommendations emphasize the need for flexibility in planning, requiring the university to seek second stage review of anticipated additions and changes is an important tool for residential communities and actually builds in the type of flexibility that OP advocates. Second stage review is a critical and flexible tool for communities and city regulators to take into account changes that may affect quality of life issues that may not have been anticipated when the Campus Master Plan was initially approved. New circumstances might warrant changes in an addition or use that serves the best interests of the city and its residents. As it is now structured, the second stage review makes this possible.

Moreover, second stage review provides an opportunity for residents and the university to have a dialogue about the need for traffic studies before embarking on new construction or revising the uses for an existing facility. In the case of new construction, the second stage review also provides opportunities for nearby residents to ensure that the University has a construction plan in place to ensure construction is not unnecessarily disruptive as well as generate a dialogue on other critical development-related issues, such as storm water management.

It is unclear from the documents circulated by OP how communities will be formally notified and be able to weigh in on changes that fall below the threshold outlined in its recommendations for a second stage review.

This recommendation further reflects the danger of OP's preoccupation with size as the defining measurement of the institutional impact on a residential community.

OP justifies its recommendations on the basis that second stage review is burdensome for institutions. If this burden provides additional protections to the integrity and character of our residential neighborhoods, then it is an "institutional" burden that is in the best interest of the city. It is no less burdensome for communities to engage in second stage review, but that does not mean that it should be abandoned or radically altered. Neighborhoods need additional tools

to ensure they have a voice in how large institutions, like universities, impact quality of life issues on a continuing basis.

In short, the changes in the second stage review process proposed in OP's Recommendation #4 would create a severe imbalance in the zoning regulations skewed to favor a university in the Campus Master Plan Process at the expense of residential neighborhoods. Rather than encourage continuing dialogue with communities, these changes in the second stage review process will give license to universities to operate as if the institution is totally isolated or walled-off from the abutting residential communities. This recommendation reflects little practical understanding of the challenges confronting neighborhoods that are adjacent to dynamic and thriving universities. If approved, these changes in the second stage review process would make it even more difficult for residents to have a full and effective voice in the Campus Master Plan process and the implementation of the Master Plan. Furthermore, it would inhibit residents' abilities to protect their communities from adverse impacts resulting from institutions located in residentially-zoned neighborhoods.

In conclusion, the Campus Master Plan process should not be a tool only for universities and other institutions to chart their growth. It also should be a tool that can be used by residential neighborhoods to protect and plan for their future.

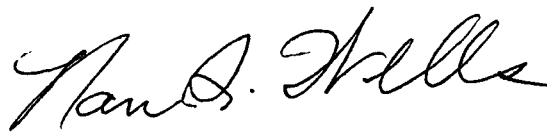
Moreover, our Zoning regulations should reflect the needs and interests of DC residents. It is with great concern that the OP recommendations cite practices in place in other cities to justify some of its recommendations, especially its recommendations on the second stage review process. Although it should be routine for OP to gather information on planning processes in place in other cities, residents of the District of Columbia have every right to expect that our rules and regulations will be custom-made to meet our needs instead of the more generic or cookie-cutter approach taken by OP in its general recommendations now under consideration by the Zoning Commission.

Thank you very much for this opportunity to comment on these recommendations.

Sincerely,



Thomas M. Smith
ANC Commissioner 3D-02



Nan S. Wells
ANC Commissioner 3D-03