

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 09-19

Z.C. Case No. 09-19

**Application of The George Washington University for Special Exception Approval of a  
New Campus Plan for the Mount Vernon Campus, Further Processing of an Approved  
Campus Plan, and Related Relief**

**April 26, 2010**

This case is an application by The George Washington University (the "University" or "Applicant") requesting special exception approval under the campus plan provisions of the Zoning Regulations at 11 DCMR §§ 3104.4, 3035, and 210 for a new campus plan for the University's Mount Vernon Campus, further processing under the new plan to allow the construction and use of an addition to Ames Hall, and special exception approval under 11 DCMR §§ 3104.1 and 411.11 for relief from the roof structure provisions of the Zoning Regulations. In accordance with §§ 210 and 3035.5 of the Zoning Regulations, this case was heard and decided by the Zoning Commission for the District of Columbia (the "Commission") using the rules of the Board of Zoning Adjustment ("BZA") at 11 DCMR §§ 3100 *et seq.* For the reasons stated below, the Commission hereby approves the applications, subject to conditions.

**HEARING DATE:** March 25, 2010

**DECISION DATE:** April 26, 2010

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

**FINDINGS OF FACT**

**Applications, Parties, and Hearing**

1. The University's current campus plan for the Mount Vernon Campus was adopted by the BZA by Order No. 16505, issued February 8, 2000 (the "2000 Plan"). The 2000 Plan was approved, subject to certain conditions, for a term ending December 31, 2010. Two further processing applications were approved concurrently with the 2000 Plan: an addition to Somers Hall and an athletic facilities project. In 2007, the Commission

approved an amendment to and further processing of the 2000 Plan to permit construction of the Pelham Replacement Project and a new secondary access road from Whitehaven Parkway. No other further processing applications have been filed since that time.

2. On November 24, 2009, the University submitted an application seeking special exception review and approval of a new campus plan for the Mount Vernon Campus (the "2010 Plan"). Included in this application was a request for further processing of the new plan in order to renovate and construct an addition to Ames Hall as well as a related request for relief from the roof structure setback provisions for the proposed Ames Hall addition. (Exhibit ("Ex.") 2.)
3. Notice of the public hearing was published in the *D.C. Register* ("DCR") on December 25, 2009 (56 DCR 9550) and was mailed to Advisory Neighborhood Commission ("ANC") 3D and to owners of all property within 200 feet of the subject property.
4. The public hearing on the application was conducted on March 25, 2010. The hearing was conducted in accordance with the provisions of 11 DCMR §§ 3022 and 3117.
5. In addition to the Applicant, ANC 3D was automatically a party in this proceeding. The representative for ANC 3D submitted a report and provided testimony conditionally in support of the application. (Exs. 12, 25.)
6. On December 10, 2009, the Neighborhood Alliance, a party in the BZA proceeding culminating in adoption of the 2000 Plan, submitted an application for party status in opposition to the application. (Ex. 6.) On March 23, 2010, the Neighborhood Alliance submitted a letter indicating it was no longer opposed to the application but wished to retain party status. (Ex. 14.) At the hearing, the authorized representative for the Neighborhood Alliance did not appear, and the Commission chose to grant the Neighborhood Alliance status as a party in support based on its March 23<sup>rd</sup> letter.
7. On March 25, 2010, the Commission received an untimely request for party status from a representative of the majority homeowner at 2200 Foxhall Road, N.W. (Ex. 16.) In the request, the representative indicated that the Neighborhood Alliance had failed to represent the homeowner's interests and requested an opportunity to participate in the case as a party in opposition. During the hearing, the representative later described the party as the "Foxhall and W Street" coalition ("FAWS"). The University opposed the untimely request as prejudicial to the University, which just learned of the request at the hearing, for failure to meet the formal requirements for requesting party status pursuant to 11 DCMR § 3106, and for failure to submit evidence that the representative was authorized to represent the majority homeowner at 2200 Foxhall Road or other homeowners. The Commission chose to waive the rules regarding party status and grant FAWS party status in opposition based on proximity to the campus.

8. At the hearing, the University presented evidence and testimony from Alicia O’Neil, the University’s Senior Associate Vice President for Operations; Matt Bell and Carl Elefante, qualified as expert witnesses in architecture; Marsha Lea, qualified as an expert witness in landscape architecture; Kyle Oliver, qualified as an expert witness in civil engineering; and Jami Milanovich, qualified as an expert witness in traffic engineering. (Exs. 23, 24.)
9. At the public hearing, the Commission heard testimony and received evidence from the Office of Planning (“OP”) in support of the application. (Ex. 11.) The Commission also received a report from the District Department of Transportation (“DDOT”) in support of the application. (Ex. 13.) The Commission also heard testimony and received evidence from multiple persons in support of the application, including written testimony from 74 students at the University; the “Neighbors United Trust,” represented by Alma Gates; a resident of Berkeley Terrace, David Roberts; and St. Patrick’s Episcopal Day School, located across the street from the campus to the south. (Exs. 22, 27, 10.)
10. At a public meeting on April 26, 2010, the Commission took final action to approve the application in Case No. 09-19, subject to conditions.<sup>1</sup>

### **The Mount Vernon Campus and Surrounding Property**

11. The Property that is the subject of this application is the University’s Mount Vernon Campus, which was defined by the BZA in its order approving the 2000 Plan as Lot 850 in Square 1374 (the “Campus” or the “Property”). The Property is located in Northwest Washington, has an area of approximately 23 acres, and is bounded generally by W Street to the north; Foxhall Road to the east; Whitehaven Parkway to the south; and a residential area known as Berkeley Terrace to the west.
12. The University acquired Mount Vernon College in the late 1990s and subsequently established the Mount Vernon Campus as a fully integrated co-educational “Academic Village” that is a complement to the University’s Foggy Bottom Campus. The Campus is home to undergraduate students – primarily freshmen and sophomores – and offers a wide variety of academic and student life opportunities. In addition, there are also graduate programs that are centered at the Campus, including Interior Design and Forensic Science.
13. The Campus features academic, residential, and athletic facilities. The academic and residential buildings are generally centered around a quadrangle on the eastern side of the property. Athletic facilities include a soccer field, tennis courts (above a parking garage), a swimming pool, and a softball field, and are located in the center and southeastern parts

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<sup>1</sup> The Commission received two correspondences from the Applicant and the party in opposition (Exs. 37 and 39 respectively) that were not among the submittals requested by the Commission. As a preliminary matter to its taking final action, the Commission directed the Secretary to the Zoning Commission to return the letters to their senders.

of the campus. The Pelham Replacement Hall, approved by the Commission in Z.C. Order No. 07-12, is under construction on the western part of the Campus.

14. The main entrance to the Campus is located on Whitehaven Parkway near its intersection with Foxhall Road. A secondary access road was constructed following approval by the Commission in Z.C. Order No. 07-12 to provide service access to the new residence hall. Another vehicular entrance is located on W Street, but its use is limited to campus visitors pursuant to the terms and conditions of the 2000 Plan.
15. Single-family residential neighborhoods abut the Campus to the north, west, and east. To the south is St. Patrick's Episcopal Day School.
16. The Campus is split-zoned D/R-1-A and D/R-1-B. The surrounding areas are similarly zoned. The Campus is located in the Institutional land use category on the Future Land Use Map of the Comprehensive Plan of the National Capital.

### **Campus Plan Application**

17. In its 2010 Plan, the University sets forth a vision for an "academic village" at the Mount Vernon Campus that will provide academic space to serve the resident population as well as student support facilities intended to enhance the educational experience of all University students. The 2010 Plan calls for new development sites to improve the sense of community and balance of uses on the campus, including new and modernized facilities intended to be responsive to evolving academic and technological standards. The 2010 Plan also proposed to increase student enrollment by 15% on a headcount basis and 10% on a full-time equivalent ("FTE") basis, as measured on any given day. The Applicant indicated that the increase was informed by the University's anticipated growth of campus programs and the goal of further balancing academic uses and student housing on the Campus. (Ex. 2, pp. 2-3.)
18. The University presented evidence and testimony that the 2010 Plan was developed through a collaborative community-based planning process, which included meetings from April 2009 through November 2009, followed by additional dialogue and further enhancements made in response to requests from multiple stakeholders. (Ex. 2, p. 6.) Testimony and evidence from participants, including ANC 3D, the Neighborhood Alliance, the Neighbors United Trust, and the Berkeley Terrace Neighbors, lauded and corroborated this process. FAWS, however, believed that the Alliance did not sufficiently focus on the impact of the proposed A-1 building on adjacent homeowners and did not fully share its interactions with the University with at least one neighbor.

19. Pursuant to 11 DCMR § 210.1, The George Washington University is an academic institution of higher learning that was chartered as such by an Act of Congress dated February 9, 1821. (Ex. 2, Tab C.)
20. As required by 11 DCMR § 210.2 and as described in greater detail below, the University demonstrated that the proposed use will be located so that it will not likely become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable impacts. Specifically, the 2010 Plan incorporated numerous conditions of approval, based on those previously adopted by the BZA in the 2000 Plan, to avoid the creation of adverse impacts as a result of the location of a university use in a residential zone. (Ex. 2, Tab U.) These conditions of approval were further supplemented and refined in response to community and agency comments. (Ex. 19.) The 2010 Plan also incorporated a detailed implementation schedule regarding the timing and satisfaction of proposed improvements to the Campus. (Ex. 2, Tab V and Ex. 20.)
21. The Applicant submitted a plan for developing the campus as a whole, showing the location, height, and bulk of all present and proposed improvements, as required by 11 DCMR § 210.4. (Exs. 2, 9, 18.)
  - a. Buildings and parking and loading facilities. The 2010 Plan identifies six development sites, which are generally concentrated around the existing quadrangle, with a proposed residential development site located toward the center of the campus, pulled inward as compared to the perimeter residential sites included in the 2000 Plan. (Ex. 2, Tabs H and J.) The 2010 Plan also features approximately 201 on-campus parking spaces and loading facilities. (Ex. 2, Tab R.)
  - b. Screening, signs, streets, and public utility facilities. The 2010 Plan features a number of streetscape improvements and enhancements, both interior to and on the streets immediately surrounding the Campus. Specific perimeter improvements include: the closure of the W Street entrance, removal of the adjacent surface parking lot, and related landscape improvements along W Street; the replacement and relocation of the perimeter fence along Foxhall Road set back behind landscaping; and the construction of new sidewalk and related entrance improvements along Whitehaven Parkway. (Ex. 2, Tabs L-M as updated by Ex. 23; see also Ex. 20.) The 2010 Plan maintains setbacks for areas protected from future development along the campus boundaries and calls for the continued maintenance of landscaping around the perimeter of the campus. (Ex. 2, Tab K; Ex. 9.)
  - c. Athletic and other recreational facilities. The 2010 Plan provides athletic and other recreational facilities as described above, and calls for the construction of a new athletic/campus life facility.

- d. Description of all activities conducted or to be conducted on the campus, and of the capacity of all present and proposed campus development. New construction will provide 105,886 square feet of gross floor area of academic/administrative space in four locations, 50,000 square feet of gross floor area of residential/campus life use in one location, and 15,000 square feet of gross floor area of athletic/campus life use in one location. (Ex. 9, Tab A.) The buildings will comply with the Zoning Regulations with respect to building height. Each proposed building is designated in one of the following use categories:
- (i) Academic/Administrative: includes classrooms, laboratories, libraries, faculty offices, administrative offices, auxiliary services, and related support functions;
  - (ii) Residential/Campus Life: includes housing, auxiliary services, student activity facilities, and related support functions; and
  - (iii) Athletic/Campus Life: includes athletic facilities, auxiliary services, student activity facilities, and related support functions.

(Ex. 9, Tab E.)

- e. After filing, the University lowered the height of the proposed A2 building from 53 feet to 39 feet in response to the request of the Neighborhood Alliance. (Ex. 9.)
- f. After filing, the University lowered the height of the proposed R1 building from 68 to 60 feet in response to the request of ANC 3D. (Ex. 9.)
- g. After the hearing, the University lowered the height of the proposed A1 building from 57 to 54 feet. (Ex. 31, Tab B.) The FAWS party had requested a maximum height of 39 feet to match the proposed A2 building.
22. Under § 210.3, the total bulk of all buildings and structures on the Campus must not exceed 1.8 FAR. As required under § 210.8, the University submitted evidence that the development plan would result in a density of 0.513 floor area ratio ("FAR"), well within the density limit for the campus as a whole. (Ex. 2, Tab J, as further modified by Ex. 9, Tab A and Ex. 31, Tab B.)
23. The proposed campus plan calls for building heights that are complementary to the surrounding residential context. For campus planning purposes, the University portrayed the heights of both existing and proposed buildings based on the measurement from the building front to the top of the roof, inclusive of architectural embellishments and enclosures for mechanical equipment and penthouses. The University used this approach to height measurement to provide a clearer understanding of the height of proposed buildings and a uniform comparison to existing buildings on campus. Proposed buildings

would range between three and four stories, with heights ranging from 39 to 63 feet. (Ex. 2, Tab. J, as further modified by Ex. 9, Tab A and Ex. 31, Tab B.)

24. Under the proposed development plan, the University will occupy approximately 25.12% of the underlying lot. (Ex. 2, Tab J.)
25. Pursuant to 11 DCMR § 210.5, the University did not propose the interim use of land or improved property outside the campus with a college or university use.
26. Pursuant to 11 DCMR § 210.7, the University provided evidence that the 2010 Plan was not inconsistent with the Comprehensive Plan, including the designation of the Campus as “Institutional” and related provisions endorsing change and infill on university campuses consistent with campus plans. The University also provided evidence that the 2010 Plan was not inconsistent with other elements of the Comprehensive Plan, including the Land Use Element, Economic Development Element, and Education Element. In particular, the Mount Vernon Campus provides an opportunity for new job and educational opportunities on a satellite campus, which is specifically endorsed by the Comprehensive Plan. The Commission finds that the proposed 2010 Plan will further the goals and policies of the Comprehensive Plan.
27. Pursuant to § 210.9, the Commission received reports in support from OP and DDOT regarding the campus plan. (Exs. 11, 13.)

### **Section 210 Evaluation**

#### **Noise**

28. New facilities proposed in the 2010 Plan have been sited to minimize noise impacts. The proposed new residential use will be located toward the center of the campus, pulled inward as compared to the perimeter residential sites included in the 2000 Plan. In addition, the University will locate campus activities to address the needs of students, staff, and faculty for appropriately quiet and secure places to study, work, and live, as well as to minimize objectionable impacts on the neighboring community; locate and improve pathways internal to campus to minimize noise along the perimeter; and locate and design loading docks and mechanical systems to reduce, to the extent reasonably possible, the noise they produce. Finally, the University will continue restrictions on noise generated from amplified sound. (Ex. 2, p. 16.)
29. The 2010 Plan calls for installation of a 10-foot sound-attenuating wall at the north end of the soccer field, which will minimize the impact of noise from sporting events. The 2010 Plan also calls for the mitigation of noise generated by mechanical equipment located behind Eckles Library near Foxhall Road by relocation, replacement or improvement of equipment, or construction of a sound-attenuating wall. (Ex. 2, p. 16.)

30. For the reasons set forth above, the Commission finds that the 2010 Plan, including the proposed increase in the number of students, is not likely to become objectionable due to noise.

Traffic

31. The 2010 Plan calls for the closure of the existing W Street entrance and concurrent removal of the existing W Street parking lot, which will reduce the impact of vehicular traffic to the campus along W Street. The University will maintain a pedestrian entrance along W Street, connected to the existing sidewalk, as well as an emergency-only route into the campus from W Street, which will be relocated to the east of the current curb cut. Except for emergency vehicles, during extreme circumstances, or for purposes of students moving into or out of residences on the campus, all vehicles will be required to enter from the primary entrance to the campus on Whitehaven Parkway. The University will continue to adhere to restrictions regarding use of the campus perimeter road and secondary Whitehaven Access Road. The University will also improve pedestrian access to the campus as a part of the 2010 Plan. In addition to the improved pedestrian entrance from W Street, the University will enhance pedestrian access from Whitehaven Parkway through the construction of a new sidewalk along the north side of Whitehaven Parkway. (Ex. 2, pp. 8-9; Ex. 9, p. 5.)
32. The University's traffic expert testified, and the Commission finds, that the increased level of traffic that will accompany the proposed student enrollment increases will not have a discernable impact on traffic operations at the nearby study intersections. At each intersection, the additional traffic will account for approximately one percent or less of the total future traffic. (Ex. 2, Tab S.)
33. The University operates a free shuttle bus service for students, faculty, and staff traveling between the Mount Vernon and Foggy Bottom campuses. The shuttle runs 24 hours a day, seven days a week during the academic year, with limited service during the summer and semester breaks. Under the 2010 Plan, the University will continue to monitor the shuttle capacities and expand the number of buses during peak periods as necessary. (Ex. 2, p. 10.)
34. As part of the proposed campus plan, the University will enhance its existing Transportation Management Plan ("TMP") with additional measures to encourage greater transit use and minimize traffic impacts. TMP measures incorporated into the 2010 Plan include car sharing, carpool incentives, ample bicycle parking, and a shopping cart loan program. (Ex. 2, Tab S.)
35. The Commission agrees with the conclusion of the Applicant's traffic expert and finds that approval of the 2010 Plan, including the proposed increase in the number of students,

is not likely to become objectionable to neighboring properties because of traffic based on the closure of the W Street entrance, continued provision of shuttle service between the Mount Vernon and Foggy Bottom campuses, and continued implementation of the TMP.

36. The 2010 Plan includes provisions concerning parking and loading facilities. All students, staff, faculty, and visitors who drive to the Campus are required to park on campus and are prohibited by the University from parking on adjacent streets. Under the 2010 Plan, the University will provide approximately 200 parking spaces on the campus. The University stated that the capacity of the existing parking garage is sufficient to accommodate both the anticipated increased campus population and the demolition of the W Street visitors' parking lot. The University will monitor the utilization of its parking facilities on an annual basis and, when parking occupancy on the campus reaches 85%, implement additional measures. (Ex. 2, pp. 9-10, 20.)
37. The Commission finds that approval of the 2010 Plan, including the proposed increase in the number of students, will not create conditions objectionable to neighboring property because of parking. The campus will provide an adequate number of parking spaces, as demand for parking is not likely to significantly increase, and the University will attempt to reduce the number of vehicle trips to campus through the TMP.

#### Number of Students

38. Under the 2000 Plan, the University is limited to a maximum of 1,500 students enrolled in a credit-bearing course on any given day on a headcount basis, and 1,000 such students on a full-time equivalent basis. The 2010 Plan seeks an increase in the student enrollment of 15% on a headcount basis and 10% on an FTE basis, or 1,725 on a headcount basis and 1,100 on a FTE basis. (Ex. 2, p. 18.) The University proposed limitations on student enrollment as follows:
  - a. The University had originally proposed counting students on a semester, rather than daily, basis. However, in response to a community request, the University agreed to continue to count students on a daily basis.
  - b. In response to an OP request, the University agreed to limit the number of students and participants in University-authorized events on the Campus during the summer months.
  - c. In a post-hearing submission that addressed ANC 3D's concern about an immediate increase in enrollment, the University agreed to phase in the enrollment increase such that the maximum enrollment would increase by 10% on a headcount basis and five percent on an FTE basis for the first five years of the 2010 Plan, and then increase an additional five percent with respect to both headcount and FTE for the

Fall 2015 semester. By this time, the University will have implemented many of the noise, lighting, and other mitigation measures proposed under the 2010 Plan.

39. The Commission finds that the approval of the proposed campus plan will not tend to create conditions objectionable to neighboring properties because of the number of students. During the hearing, the University demonstrated that the proposed increase in the number of students, as well as the student population as a whole, would not result in objectionable impacts due to the many existing and proposed measures implemented by the University to mitigate noise, lighting, traffic, parking, and other impacts. The Commission also finds that the proposed phase-in for the enrollment increase is reasonable and will ensure no objectionable impacts are felt in the surrounding community since the second phase of increase will not take place until after the University has implemented many of the mitigation measures proposed under the 2010 Plan.

#### Other Objectionable Conditions

40. Faculty and Staff. The University estimated a faculty/staff count of not more than 150 over the life of the 2010 Plan. (Ex. 2, p. 19.)
41. Visitors. In response to an OP request, the University agreed to use best efforts to avoid scheduling special events likely to attract more than 100 visitors on weekdays during peak commuter traffic times. (Ex. 9.)
42. Lighting. The 2010 Plan contains lighting guidelines that will place light fixtures to ensure they are not disruptive to adjoining neighbors and the environment. (Ex. 2, Tab N.) New campus lighting will be limited to that reasonably required for campus safety and security, will be designed in a high-quality manner with the goal of limiting impact on adjacent neighborhood properties, and will specifically not include flood lights angled toward the campus perimeter. The University will not add lighting to its soccer field, will add timers to the tennis court lights that will turn off the lights at the previously determined 11:00 p.m. shut-off time, and will implement switching intended to ensure that the tennis court lights are off when not in use. (Ex. 2 p. 17.)
43. Building Design. As a part of the 2010 Plan, the University proposed design guidelines for future campus development that set forth the range of materials and design features of future development sites. (Ex. 2, Tab O, as further modified by Ex. 21.) These design guidelines include required setbacks for the upper portions of certain development sites and preferences regarding roof design.
44. Historic Resources. As part of the 2010 Plan, the University will inventory all buildings on the Campus constructed prior to 1972 and compile sufficient information on those buildings to analyze them in their context. The University will provide the collected

information and assessment to the Historic Preservation Office (“HPO”), and will work with HPO to determine areas of higher and lower interest for potential historic and archaeological resources and develop treatment plans specific to the needs of each area. (Ex. 2, p. 10.)

45. Streetscape Improvements. As described above, the 2010 Plan incorporates many streetscape improvements, including landscaping, signage, and lighting to maintain an attractive campus. (Ex. 2, p. 20.) The 2010 Plan also features a detailed implementation schedule intended to ensure the completion of these improvements. (Ex. 20.)
46. Sustainability. As a part of the 2010 Plan, the University will improve the aesthetics and environmental benefits of its landscaping and implement a comprehensive stormwater management plan on a building-by-building basis over the course of the 2010 Plan as new buildings are developed. The University has committed to achieve, as a minimum, the equivalent of certification under the LEED-NC 3.0 rating system for all new buildings on the Campus.
47. The Commission finds that approval of the proposed campus plan, including the increase in the number of students, will not create other conditions objectionable to neighboring property due to multiple features of the 2010 Plan that address the aesthetic and environmental features of the Campus.

#### **Further Processing for Ames Hall**

48. Ames Hall is currently used for campus life and student support space. With the completion of the Pelham Hall replacement project approved by the Commission in Z.C. Order No. 01-12, most of the functions in Ames Hall will be relocated to the new residence hall. As a result, and consistent with the goals of the 2010 Plan, the University proposes the conversion of Ames Hall into an academic/administrative building. As a part of this conversion and renovation, the University will construct an addition on the building that will add a net new 26,866 square feet of gross floor area. The proposed renovated and expanded Ames Hall will contain a blend of academic classrooms, informal student gathering space, faculty offices, and other academic and administrative support space. (Ex. 2, p. 23.)
49. The proposed design for the addition to Ames Hall will maintain an architectural style consistent with the campus and scale consistent with the existing building, generally matching existing floor and roof ridge elevations. The massing of the proposed addition will be articulated both horizontally and vertically to maintain a compatible scale and will complement the grade of the site. Because Ames Hall is at the center of campus and at the intersection of many pedestrian pathways, the proposed design incorporates additional site planning features. As the proposed addition steps down the slope, it will help to create new pathways that will integrate the campus. (Ex. 2, pp. 23-24.)

50. The proposed design for the renovated and expanded Ames Hall will incorporate many sustainable design features including a partial green roof. The University will design and construct the building to achieve the equivalent of a minimum of certification under the LEED-NC 3.0 standard. (Ex. 2, p. 24.)
51. In order to accommodate the proposed mechanical equipment and elevator penthouse for the addition, the University requests relief from the setback requirements for the addition's roof structure. Specifically, the University seeks special exception relief, pursuant to 11 DCMR §§ 3104 and 411, from § 400.7 of the Zoning Regulations for the roof structure, which as planned will not be fully set back at a 1:1 ratio from the roof edge. (Ex. 2, p. 25.) The project architect testified that relief was required because of the relationship of the addition to the existing structure and other site constraints. In a post-hearing submission, the University further refined the design of the penthouse in order to reduce its apparent height and mass and harmonize its design with the main structure.
52. The Commission finds that the proposed addition to Ames Hall is not likely to become objectionable because of noise, traffic, number of students, or other objectionable conditions for the reasons stated above. The renovation and addition has been sited and designed to harmonize with existing campus development and enhance the Whitehaven entrance to the Campus. The Commission also finds that full compliance with the roof structure requirements would be unduly restrictive and unreasonable, and that the proposed roof structure will not materially impair the intent and purpose of the Zoning Regulations or reduce the light and air of adjacent buildings.

### **Office of Planning**

53. By report dated March 18, 2010 and by testimony at the public hearing, OP recommended approval of the University's application for a new campus plan, further processing to permit the addition to Ames Hall, and roof structure relief related to the Ames Hall addition. OP reviewed the application under the standards for special exception approval for a campus plan and further processing under § 210 as well as the general standards for special exception approval under § 3104, and concluded that the University had satisfied the burden of proof, including with respect to the University's proposed enrollment increase. OP similarly concluded that the University had met the burden of proof for special exception relief from the roof structure setback requirements under § 411.11. OP recommended that the Commission adopt all of the University's proposed conditions of approval as well as additional conditions proposed by OP. (Ex. 15.)
54. Because OP and the University differed on the wording of certain of the conditions, the Commission, at the conclusion of the hearing, asked OP to provide a comparison of the language it and the Applicant proposed.

55. OP provided the comparison in a memorandum dated April 8, 2010. (Ex. 30.) The memorandum identified four items in which it recommended different text.
56. The University, through a letter dated April 15, 2010 (Ex. 34), responded by indicating that it accepted OP's recommended changes proposed with respect to the second and third items pertaining to the roofline condition contained in the design guidelines and the implementation condition. The Commission has, therefore, modified Conditions 2 (d) and 2 (e) accordingly.
57. As to the first item, the Applicant and OP arrived at mutually agreeable language to insert in Condition No. 11 that will afford the University needed flexibility to schedule athletic events outside of the times prescribed in that condition in order to respond to unforeseen circumstances. OP agreed to withdraw the fourth item, which would have required the University to construct buildings in accordance with whatever LEED NC standard was in place at the time. The Commission agrees that the proposed LEED proffer suffices.

**District Department of Transportation**

58. By report dated March 22, 2010, DDOT recommended approval of the University's application. DDOT agreed that the University-related traffic increase associated with the proposed campus plan will be slight and commented favorably on the Applicant's TMP. (Ex. 13.)

**ANC 3D**

59. At a regularly scheduled meeting on March 3, 2010, with a quorum present, ANC 3D voted to approve, with conditions, the University's application for a campus plan. (Ex. 12.) At the hearing, ANC 3D's representative presented testimony in support, noting that "every effort has been made by [the University] to accommodate the needs" of its campus neighbors. (Ex. 25.)
60. The ANC conditioned its approval on a smaller increase in the student enrollment than that proposed by the University, and requested that the Commission require that the University return to the Commission five years after approval to assess whether the cap could be increased further. ANC 3D contended that this condition is necessary to allow the community to assess the impact of the population growth of the campus. (Ex 12, pp. 1-2.) ANC 3D did not provide any evidence or testimony indicating that the additional student enrollment would impose objectionable impacts on the surrounding community.
61. In response to ANC 3D's request, the University agreed to phase in the enrollment increase over a five-year period. (Ex. 31, p. 2.) The University did not, however, agree that it was necessary to condition the additional increase upon further Commission approval. The University noted that the improvements associated with the 2010 Plan,

including the perimeter enhancements, closure of W Street, and noise and lighting improvements, would all be completed by the time the additional students were phased in.

62. In a letter to the Commission dated April 15, 2010, ANC 3D indicated that at a properly noticed meeting with a quorum present, it had voted unanimously to continue to recommend that the Commission not grant an enrollment increase greater than 10% of the present head count and five percent of the present FTE. The University would have to wait five years to seek a further increase. The ANC again explained that this additional time was needed in order to evaluate the effect of the additional students.
63. Similar logic led to the reversal of the BZA's decision to defer an enrollment increase sought by Georgetown University until after a new dorm was constructed. The Court of Appeals found "little, if any, support in the record for the finding that the modest enrollment increase...contributed to or exacerbated objectionable conditions in the adjoining neighborhoods." *President and Dirs. of Georgetown College v. D.C. Bd. of Zoning Adj.*, 837 A.2d 58, 74 (D.C. 2003). In this case, the ANC seeks not a delay in an automatic increase, but essentially asks that the Commission partially deny the enrollment increase sought and prevent the University from applying again for five years.
64. A campus plan approval includes all aspects of a college or university's operations and is therefore analyzed as a special exception. In reviewing special exception requests, the Commission's "discretion ... is limited to [determining] whether the [proposed] exception [satisfies] the ... requirements" of the regulations and "[if] the applicant [meets its burden], the [Commission] ordinarily must grant [the] application." *First Washington Baptist Church v. D.C. Bd. of Zoning Adjustment*, 432 A.2d 695, 701 (D.C. 1981), quoting, *Stewart v. D.C. Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973).
65. Here, the University has more than met its burden of showing that the entire increase in the number of students proposed is not likely to become objectionable to neighboring property if fully implemented at the present time. The fact that the University has offered to delay a portion of the increase does not require the Commission to revisit this conclusion.
66. The ANC also proposed a list of other conditions that the ANC recommended the Commission adopt as part of its approval of the proposed campus plan. (Ex. 12.) The University generally adopted these conditions.

### **Other Testimony in Support**

67. At the hearing, the Commission received evidence and heard testimony from 74 students in support of the application. The Commission also heard testimony from a resident of

the Berkley Terrace residential neighborhood to the west of the Campus in support of the 2010 Plan and received a letter in support from St. Patrick's Episcopal Day School, the primary landowner to the south of the Campus. Finally, the Commission heard testimony in support from a former ANC 3D commissioner and current representative of Neighbors United Trust, who concluded that the University had met its burden of proof and had conducted a robust, successful planning process.

### **Testimony in Opposition**

68. FAWS, the party in opposition to the application, objected to the height and massing of the proposed A1 building, near the northeast corner of the Campus, but acknowledged that the proposed A1 building was an improvement over the 2000 Plan, which had called for two residence halls, each larger than the proposed A1 building, rather than one academic building.
69. In a letter dated April 15, 2010, but received by the Office of Zoning on April 22, 2010, FAWS indicated that following its review of the case materials, it had reached the conclusion that "the University has largely met its requisite standards in its revised 2010 Campus Plan, with the exception of the location and alignment of the proposed A1 building."
70. During the hearing, the FAWS representative asked the Commission to request that the Applicant provide "a simple overlay of the existing buildings and A1, compared to the profiles of the new buildings so we can see side-by -- just one on top of the other -- so we can compare direct what the difference in the mass ... and the height." (Transcript ("Tr.") p. 189.) At the conclusion of the hearing, the Commission asked the Applicant to provide "the comparison of the A1 Building to the existing buildings". (Tr. p. 202.)
71. In its design guidelines, the University provided for the setback of the A1 building's mechanical penthouse by 40 feet in order to reduce its overall visual impact. Further, in its post-hearing submission, the University indicated that it had reduced the height of the planned A1 building from 57 to 54 feet, and provided illustrations of the proposed A1 building compared to existing conditions and to the proposed 2000 Plan.
72. In its submission dated April 8, 2010, the Applicant provided drawings and photo images that compared the proposed A1 building against existing conditions and against the proposed larger Hillside residence halls approved, but not built under the 2000 Plan. (Ex. 31, Tab C.)
73. FAWS responded to the submission through its letter dated April 15, 2010. (Ex. 32.) FAWS contended that the submission did not fully respond to the Commission's request because the comparative did not include a side view and because the depiction of the

proposed building in photo images was obscured by foliage. FAWS felt that only a depiction showing the proposed building through bare trees would suffice.

74. The Commission must disagree. The photo images are not as useful as the site sections that show the relative heights of the proposed building compared with the properties across the street. This information was sufficient for the Commission to evaluate the visual impact of the proposed building and allowed it to conclude that it will be fully compatible with this neighborhood and a clear improvement over the unbuilt larger residence halls approved in the 2000 Plan.
75. The Commission finds that the University has made reasonable modifications to and adopted reasonable restrictions on the design of the A1 building that will ensure it is not likely to become objectionable to FAWS or other neighboring property owners.
76. No other testimony in opposition was presented at the hearing.

### CONCLUSIONS OF LAW

1. The Applicant requested special exception approval, pursuant to 11 DCMR §§ 210, 3035, and 3104, of a new campus plan for a term ending December 31, 2020, and further processing of that campus plan, as well as special exception approval, pursuant to 11 DCMR §§ 411.11 and 3104, for relief from the setback requirements of the roof structure regulations. The Commission is authorized under the aforementioned provisions to grant a special exception when, in the judgment of the Commission based on a showing through substantial evidence, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. A special exception to allow use as a college or university in a residential zone district may be granted subject to the provisions contained in § 210, including that the university use must be “located so that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions,” and that maximum bulk requirements may be increased for specific buildings, subject to restrictions based on the total bulk of all buildings and structures on the campus. (11 DCMR §§ 210.2–210.9.) The Commission is also authorized to approve special exception relief from the roof structure provisions of the Zoning Regulations under § 411.11, provided that the “intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.”
2. Based on the above Findings of Fact, the Commission concludes that the University has satisfied the burden of proof for special exception approval of the proposed new campus

plan in accordance with § 210. The 2010 Plan will provide limited new development consistent with the amount of development approved in the University's 2000 campus plan as well as a modest increase in student enrollment. The new development and the enrollment increase are not likely to become objectionable because of noise, traffic, number of students, or other objectionable impacts. The 2010 Plan is consistent with the provisions of the Comprehensive Plan, will continue the conditions of approval of the 2000 campus plan to avoid creation of adverse impacts or objectionable conditions, and will contain some new conditions provided in response to community and agency comment.

3. Based on the above Findings of Fact, the Commission concludes that the University has satisfied the burden of proof for special exception approval of further processing of the 2010 Plan in accordance with § 210. The addition to Ames Hall is consistent with the 2010 Plan and has been sited and designed to serve as an attractive and functional addition to the Campus. The Commission concludes that the location and design of the project are not likely to become objectionable due to noise, traffic, or other objectionable conditions.
4. The Commission concludes that the Applicant has satisfied the burden of proof for special exception approval of the Ames Hall Renovation Project's roof structure, which will not impair the purposes of the Zoning Regulations and will not adversely affect the light and air of adjacent buildings.
5. The Commission accorded the recommendation of OP the "great weight" to which it was entitled pursuant to D.C. Official Code § 6-623.04 (2001). As discussed in this Order, the Commission concurred with the recommendation of OP to grant the University's applications, subject to conditions.
6. The Commission accorded the issues and concerns raised by ANC 3D the "great weight" to which they are entitled pursuant to D.C. Official Code § 1-309.10(d) (2001). In doing so, the Commission fully credited the unique vantage point that ANC 3D holds with respect to the impact of the proposed campus plan on the ANC's constituents. However, the Commission concludes that the ANC has not offered persuasive advice that would cause the Commission to find that the University's proposed second phase of the enrollment increase should be made contingent upon an additional approval by the Commission. The University has met its burden of demonstrating that the full enrollment increase is not likely to become objectionable due to noise, traffic, or other impacts, and the additional students anticipated in 2015 will be added only after the University has completed the improvements called for under the 2010 Plan.

## DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the 2010 Mount Vernon Campus Plan (the "2010 Plan") and the level of University operation it describes until December 31, 2020, further processing of the Ames Hall Renovation and Addition, and related relief from the roof structure requirements, subject to the following conditions:

1. Ames Hall Renovation and Addition. The Ames Hall Renovation and Addition shall be developed in accordance with the plans and materials submitted by the University marked as Tab C of Exhibit 9 of the record, as modified by the plans submitted as Exhibit 18 of the record and included in Tab A of the University's post-hearing submission (Ex. 31).
2. Campus Development. The University shall be permitted to construct additional density as described in the 2010 Plan, provided that the proposed development is substantially in conformance with the 2010 Plan as follows:
  - a. The location of each building shall be limited to the locations identified on Tab H of the 2010 Plan. (Ex. 2.)
  - b. The uses within each building shall be substantially in conformance with Tab I of the 2010 Plan (Ex. 2) (as modified by Tab E of Exhibit 9 of the record).<sup>2</sup>
  - c. The height, gross floor area, and lot coverage of each building shall be consistent with the Development Program Summary in Tab J of the 2010 Plan (Ex. 2) (as modified by Tab A of Exhibit 9 of the record and Tab B of the University's post-hearing submission (Ex. 31)).
  - d. The design shall conform to the Design Guidelines attached as Tab O of the 2010 Plan (as modified by Exhibits 21 and 31 of the record).
  - e. Other campus improvements shall be completed in accordance with the Implementation Schedule attached as Tab V of the 2010 Plan (Ex. 2) (as modified by Exhibits 20 and 31 of the record).
  - f. No building permit shall be filed for the A2 building until a certificate of occupancy has been issued for the A1 building.
3. Student Enrollment. Upon the approval of the 2010 Plan, the Mount Vernon student headcount shall not exceed 1,650 on a daily basis, and the Mount Vernon full-time equivalent shall not exceed 1,050 on a daily basis. Of these students, the number of

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<sup>2</sup> The use categories indicate the predominant use for each proposed building but do not preclude other accessory uses, such as administrative offices in a residence hall or student life activities in an academic building.

students who have housing assignments on the Mount Vernon Campus shall not exceed 800 students. Beginning in Fall 2015 and for the remainder of the term of the 2010 Plan, the Mount Vernon student headcount shall not exceed 1,725 students on a daily basis and the Mount Vernon full-time equivalent shall not exceed 1,100 on a daily basis. For purposes of this condition:

- a. The "Mount Vernon student headcount" shall be defined as students who have a housing assignment at the Mount Vernon Campus or are enrolled in a credit-bearing course on the Mount Vernon Campus.
  - b. The "Mount Vernon full-time equivalent" shall be defined as follows:
    - i. Students who have a housing assignment at the Mount Vernon Campus or take a full-time course load at Mount Vernon shall each be counted as one full-time equivalent student.
    - ii. Full-time equivalency will be determined by counting all full-time students as one and then adding up the total number of course credits enrolled on the campus by part-time students and dividing by a full-time course load (generally 12 credits), with the exception that all "Mount Vernon Residents" will equal one student (on every day of the week) for both headcount and FTE counting purposes. Currently, the full-time course load for undergraduate students is 12 credits and the full-time course load for graduate students is 9 credits. Formulas for determining full-time equivalents may change over the term of the 2010 Mount Vernon Campus Plan depending on program requirements or the restructuring of the academic calendar.
  - c. Evidence of compliance with this condition for the fall semester and previous spring semester shall be made available to the quarterly meeting group outlined in Condition 10 on or before November 20<sup>th</sup> of each year.
  - d. During the summer months, the Mount Vernon summer headcount – defined as all students who have a housing assignment on the Mount Vernon Campus, all students who are enrolled in a credit-bearing course on the Mount Vernon Campus, and all participants in a University-authorized event on the Mount Vernon Campus – shall not exceed 1,725 on a daily basis. This limit shall not apply to the use of the pool or tennis courts.
4. Access and Circulation.
- a. The eastern Whitehaven Parkway entrance shall be the primary vehicular entrance to the campus for all regular vehicular traffic, and shall be the exclusive vehicular entrance to the campus for students, faculty, and visitors. The University shall

enhance the primary Whitehaven Parkway entrance in accordance with the Implementation Schedule.

- b. The University shall restrict the regular use of the western Whitehaven Parkway entrance (the “Secondary Whitehaven Access Road”) to University vehicles (e.g. facilities and security vehicles and limited pick-up or drop-off for disabled students who may reside in the Pelham Hall redevelopment project) and vehicles making deliveries to the Pelham Hall redevelopment project. The University shall be permitted to use the Secondary Whitehaven Access Road for non-University vehicles for special events and activities.
- c. The University shall restrict the regular use of the section of the perimeter road identified in Exhibit R of the 2010 Plan to regular use by University vehicles only (e.g. facilities and security vehicles and limited pick-up or drop-off for disabled students who may reside in the Pelham Hall redevelopment project). Further, the University shall limit the regular use of that section of the perimeter road to one-way traffic (westbound and southbound). The University shall be permitted to use that section of the perimeter road for two-way traffic as well as by non-University vehicles for special events and activities.
- d. The University shall close the W Street vehicular entrance to the campus in accordance with the Implementation Schedule. Once any required permits have been issued and construction has been completed, the University shall not use the W Street entrance for regular vehicular access, but shall be permitted to use the W Street entrance for pedestrian access as well as for emergency vehicle access, vehicle access during extreme situations, and vehicular access for student move-in and move-out, with student move-in and move-out being limited to not more than four days per year.

5. Traffic and Parking.

a. Vern Express.

- i. Shuttle Routes. The University shall continue to operate the “Vern Express” shuttle bus between the Foggy Bottom Campus and Mount Vernon Campus. The primary route from the Mount Vernon Campus shall be from the Whitehaven entrance to Foxhall Road to Canal Road and the Whitehurst Freeway towards Foggy Bottom. Alternate routes may be used in the event of emergencies or significant traffic delays along the primary route, but shall not include W Street and 48<sup>th</sup> Street.
- ii. Shuttle Size. The University shall limit the size of its regular daily fleet of the “Vern Express” to mini-buses, a category of shuttle bus vehicles generally seating between 22 and 33 passengers. The University will not use coach buses as a part

of its regular daily fleet. Larger vehicles may be used in the case of special events, emergencies, or other similar circumstances. Should the University seek to modify the types of buses used in its fleet, the University will return to the ANC to modify this condition.

- b. The University shall require all students, faculty, staff, and vendors to park on the Mount Vernon Campus. The University shall prohibit, to the extent permitted by law, students, faculty, staff, and vendors from parking on the streets adjacent to and surrounding the Mount Vernon Campus. To accomplish these purposes, the University shall continue to employ a system of administrative actions, penalties, and fines for violations, but has no authority to tow or remove cars parked on public streets.
- c. The University shall prohibit construction employees, contractors, and subcontractors from parking on the streets adjacent to and surrounding the Mount Vernon Campus through a contract provision or similar mechanism.
- d. The University shall use reasonable efforts to provide advance notification of parking availability on campus and encourage other University-related visitors to park on the Mount Vernon Campus.
- e. The University shall reserve one parking space for a car-sharing service.
- f. The University shall adhere to the existing and proposed Transportation Management Plan and Parking Management Plan provisions outlined on pages 25, 26 of Tab S of the 2010 Plan. (Ex. 2.) In addition, in conjunction with the construction of each development site, the University shall evaluate opportunities for additional bicycle parking.

6. Landscaping.

- a. The University shall adhere to the perimeter landscaping plan attached as Tab K of the 2010 Plan (Ex. 2) in accordance with the Implementation Schedule.
- b. The University shall adhere to the perimeter fencing and pathways plan attached as Tab M of the 2010 Plan (Ex. 2) in accordance with the Implementation Schedule.

7. Noise.

- a. No sound amplification systems with multiple components and large free-standing speakers shall be permitted on the soccer field or tennis courts after 7:00 p.m. unless an official overtime is declared. Notwithstanding the foregoing, the University shall be permitted to use such sound amplification systems on the soccer field for up to 12

non-athletic special events per year (with additional special events permitted if approved at the quarterly community meeting described in Condition 10).

- b. No scheduled activities or sound amplification systems shall be permitted on the soccer field or tennis courts before 8:00 a.m. on weekends. Notwithstanding the foregoing, the University shall be permitted to use such facilities prior to 8:00 a.m. for set-up activities.
        - c. The University shall maintain and publicize its “hot-line” telephone number to the University Police Department, which shall be provided to ANC 3D, ANC 2E, the Foxhall Citizens Association, and the Palisades Citizens Association. The hot-line shall continue to be made available to neighbors who wish to call with questions or concerns regarding campus noise and activity.
8. Lighting. The University shall comply with the lighting guidelines set forth on Tab N of the 2010 Plan. (Ex. 2.).
9. Sustainability and Stormwater Management.
  - a. The University shall design and construct each new building to achieve, as a minimum, the equivalent of certification under the LEED-NC 3.0 rating system.
  - b. The University shall adhere to the stormwater management plan attached as Tab P of the 2010 Plan (Ex. 2) and construct improvements in accordance with the Implementation Schedule.
10. Quarterly Meetings. The University shall continue to maintain a community liaison program consisting of representatives of the University, ANC 3D, and the neighborhood. The University shall hold meetings of the community liaison members at least four times per year on the Mount Vernon Campus or similar location within the community. In addition, prior to filing any application for further zoning approval with the Zoning Commission, the University shall present the action either at a regularly scheduled quarterly meeting or at a special meeting. Notice of the meetings shall be delivered to the ANC and to owners of property abutting or directly across the street from the Campus at least one week prior to the meetings.
11. Special Events. In the absence of unforeseen circumstances, such as inclement weather or scheduling conflicts, the University shall avoid scheduling performances, athletic events, and other special events (“Events”) likely to attract large numbers of non-University visitors (“Visitors”) to the campus on weekdays during the peak commuter traffic times of 7:00 a.m. to 9:00 a.m. and 5:00 p.m. to 7:00 p.m.
  - a. Weekday evening performance events expected to draw more than 100 Visitors shall begin no earlier than 7:00 p.m.


- b. In the absence of unforeseen circumstances, such as inclement weather or scheduling conflicts, the University shall avoid scheduling weekday athletic events that are expected to draw over 100 Visitors to begin during the peak commuter traffic times.
  - c. The University shall publicize the availability of its shuttle service between the Mount Vernon Campus and the Foggy Bottom Metrorail Station to Visitors attending these Events.
  - d. The University shall employ campus personnel as necessary to facilitate smooth flow of traffic into and out of the campus during these Events.
  - e. The University shall work with area institutions in order to provide additional parking for unusual situations where modal choices of event attendees are likely to result in excessive parking demand.
  - f. The University shall use good faith efforts to provide advance written, fax, or e-mail notice of these Events to its neighbors. Extracurricular events such as performances or athletic events shall not require such notice as long as such activities involve and are for the benefit of student teams or other groups of the University.
  - g. This condition shall not apply to the use of the pool or tennis courts.
12. Treatment of Potential Historic Resources. Before any application for further processing is filed under the approved 2010 Plan (not including Ames Hall), the University shall submit the following documents to HPO:
- a. An inventory of all buildings on the Mount Vernon Campus including their dates of construction, architect, description of construction and materials, and identifying alterations and additions.
  - b. In consultation with HPO, an analysis of the Campus to determine areas of higher and lower interest for potential historic and archaeological resources.
  - c. In consultation with HPO, treatment plans specific to the needs of each area, provided:
    - i. The treatment plan for areas of the Campus that are of higher historical interest shall outline a process for consultation with the HPO, establish standards for treatment of buildings in these areas, and include provisions for dispute resolution.
    - ii. The treatment plan for areas of lower interest will allow more flexibility.

- iii. Treatment plans for each will also identify lists of certain activities that are exempt from review.

**VOTE:** 4-0-1 (Anthony J. Hood, Peter G. May, Konrad W. Schlater, and Michael G. Turnbull to approve; William W. Keating, III, not having participated, not voting).

**BY ORDER OF THE D.C. ZONING COMMISSION**

The majority of the Commission members approved the issuance of this Order

ATTESTED BY:   
JAMISON L. WEINBAUM  
DIRECTOR, OFFICE OF ZONING

**FINAL DATE OF ORDER: October 1, 2010**

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE COMMISSION SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

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.

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.

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,

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RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION THAT IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS 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.


GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of Zoning



**Z.C. CASE NO.: 09-19**

As Secretary to the Commission, I hereby certify that on OCT - 1 2010 copies of this Z.C. Order No. 09-19 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

1. *D.C. Register*
2. Maureen Dwyer, Esq.  
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4. Commissioner Ann Heuer  
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6. Councilmember Mary M. Cheh
7. DDOT (Karina Ricks)
8. Melinda Bolling, Acting General Counsel  
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9. Office of the Attorney General (Alan Bergstein)
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11. Foxhall and W Street Coalition  
c/o Charles Pashayan, Jr., Esq.  
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Washington, D.C. 20006

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