

**Government of the District of Columbia
ADVISORY NEIGHBORHOOD COMMISSION 3D**

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January 23, 2015

Mr. Anthony Hood, Chairman
District of Columbia Zoning Commission
441 4th Street NW, Suite 210S
Washington, D.C. 20001

ZONING COMMISSION
District of Columbia
CASE NO. 11-07C
EXHIBIT NO. 18

Re: Z.C. Case No. 11-07C: Request for a Modification to an Approved Campus Plan
Further Processing Application – Zoning Commission Order No. 11-07

Dear Chairman Hood and Members of the Commission:

At its regularly scheduled meeting on January 14, 2015 at the West Hall on the George Washington-Mt. Vernon Campus, and with a quorum present at all times, Advisory Neighborhood Commission (ANC) 3D voted 8-2 to support – with conditions – the application of American University (AU) for a modification of Zoning Commission (Z.C.) Order No. 11-07 for the Further Processing of the East Campus. If approved, this modification would permit AU to construct a two-story underground parking garage instead of the one-story garage (a) proposed by AU as part of its Further Processing application; (b) included in the plans approved by the Z.C.; and (c) cited in Z.C. Order No. 11-07 (Paragraph 145).

As part of its application for a modification, AU has proposed an additional condition (No. 42) to Z.C. 11-07 that all motor coaches and charter buses would be prohibited from accessing the East Campus through the underground garage or the adjacent surface parking lot. The original plans cited in Paragraph 145 of Z.C. Order No. 11-07 provide for a bus turn-around in the East Campus underground parking garage. AU has now indicated to ANC 3D that engineering issues with the underground parking lot make an internal underground bus turn-around unfeasible.

ANC 3D concludes that Condition No. 42, as proposed by AU, is open-ended and ambiguous and thus requires additional specificity to ensure that the intent of the motor coach and charter bus restrictions are clearly spelled out to prevent any future misunderstanding. ANC 3D believes the language of Condition No. 42 should reflect fully the intent of AU, as stated to the ANC at its January 14, 2015 meeting. Therefore, ANC 3D suggests the following language for Condition No. 42 for review and consideration of the Z.C. in this case:

- AU shall not allow any charter buses or motor coaches (defined by AU as large capacity buses that transport visitors to campus and excluding AU-owned and

operated shuttle buses) to enter the East Campus property, including the surface parking lot, and shall not allow any loading or unloading of buses or motor coaches on public streets, including, but not limited to, New Mexico, Nebraska, or Massachusetts Avenues; and

- AU shall require all charter buses or motor coaches (defined by AU as large capacity buses that transport visitors to campus and excluding AU-owned and operated shuttle buses) to load, unload, and park at the AU Transportation Center on the main campus.

ANC 3D also notes that many residents expressed concerns at the ANC's January 14 meeting that the deeper excavation required for the two-story garage may have unintended consequences from underground water flow that could result in damage to the foundations of adjacent homes. AU indicated that such damage was unlikely and cited DC agency review of the permit application. However, AU offered no evidence for its assertion that DC agencies had considered this specific issue. Consequently, ANC 3D considered recommending additional language for Condition No. 41(b) of Z.C. Order No. 11-07, which now requires AU to repair damage to the properties of adjacent property owners "caused by and resulting from the construction work conducted on the East Campus."

AU representatives equivocated at the ANC January 14 meeting on whether the language of Condition No. 41(b) would apply to damage stemming from underground water flow. After extensive discussion, ANC 3D affirmed its view that – based on the existing language of Condition No. 41(b) – AU would be responsible for repairing damage related to underground water flow. It is our hope that the Z.C. will affirm the view of ANC 3D on this important issue.

In its December 1, 2014 filing to the Z.C. in this case, ANC 3D also expressed concern that the modification requested by AU would impact access to the East Campus by emergency and service vehicles. ANC 3D had been concerned that the lower height levels in the two-story underground parking garage might prevent ambulances and service vehicles from accessing the site, as originally proposed in the Campus Plan Further Processing proceeding. At the ANC's January 14 meeting, AU representatives outlined alternative plans for ambulances and large service vehicles to access the site that were not objectionable to neighbors and ANC 3D.

This case is the culmination of a filing to the Board of Zoning Adjustment (BZA) initiated by ANC 3D in August 2014 seeking to ensure AU's compliance with Z.C. Order No. 11-07. As AU has acknowledged to ANC 3D, its plans for the East Campus have evolved – and continue to evolve – since the Further Processing application was approved by the Z.C. in March 2013. AU's claims that these changes do not require approval by the Z.C. prompted ANC 3D to call on the DC Zoning Administrator (ZA) to delay issuing permits for construction until the changes could be reviewed by the Z.C. Instead, the ZA issued the building permits arguing that the plans submitted by AU and approved by the Z.C. were for "illustrative purposes only" and not binding on AU. It was precisely that ruling by the ZA that prompted ANC 3D to file its initial challenge with the BZA.

Given the circumstances leading up to this case, ANC 3D also voted unanimously (10-0) at its January 14 meeting to offer the following additional recommendations to the Z.C.:

- The language in Z.C. Order No. 11-07 is not always clear and concise and has the potential for interpretation which has led to ongoing disputes and/or misinterpretations of the Zoning Commission's decisions. ANC 3D recommends that Zoning Orders be written more clearly to reflect the Zoning Commission's decisions.
- Z.C. Case No. 11-07C demonstrates the need for a more formalized definition of the role of the Zoning Administrator, which clarifies the scope of responsibility assigned to the position. This definition should be included in the DC Zoning regulations.

ANC 3D appreciates and commends the decision of the Z.C. in December 2014 to convene a hearing in this case. That decision by the Z.C. provided an opportunity for ANC 3D and residents of the community to learn more about AU's proposed changes in the plans approved by the Z.C. and assess the potential impacts of these changes. Based on the outcome of ANC 3D's January 14, 2015 meeting, it is apparent that many of the issues and concerns stemming from the proposed two-story garage modification could have been resolved a year ago – when permit applications were first filed by AU – had there been a willingness by AU to engage in a timely dialogue with the community, including ANC 3D, on the proposed modification. The Z.C. decision to require a hearing in this case helped to encourage that dialogue to occur.

ANC 3D assures the Z.C. that it remains committed to working with AU and the community to ensure that the East Campus project is completed on schedule and consistent with Z.C. Order No. 11-07. Thank you for this opportunity to comment on Z.C. Case No. 11-07C.

Sincerely,



Thomas M. Smith

Chair

CERTIFICATE OF SERVICE

I hereby certify that copies of the attached letter were delivered on January 23, 2015 by e-mail to the following:

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