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June 9, 2022

**BY IZIS**

Mr. Anthony J. Hood, Chairman  
D.C. Zoning Commission  
One Judiciary Square  
441 4th Street, N.W.  
Second Floor  
Washington, D.C. 20001

Re: Zoning Commission Case No. 22-13  
Application of The Wesley Theological Seminary of the United Methodist Church  
for Approval for a Campus Plan to Thrive in Place (2022-2032)  
4500 Massachusetts Avenue, N.W.  
Square 1600, Lots 6 (818 and 819), 7, 8 and 9.

Dear Chairman Hood and Members of the Commission:

On June 8, 2022, the Neighbors for a Livable Community (“NLC”) and Spring Valley–Wesley Heights Citizens Association (“SV–WHCA”), jointly filed a lengthy procedural objection titled “Applicant’s Failure to Comply with Pre-Hearing Obligations” focused primarily on the Seminary’s designation of Mr. Shane L. Dettman, Director of Planning Services at Holland & Knight, LLP, as an expert witness regarding zoning issues, including Permitted Campus Plan Uses.

As set forth below, neither NLC nor SV-WHCA have suffered any surprise and/or prejudice by Mr. Dettman’s direct and rebuttal testimony at the June 13, 2022 Public Hearing. Wesley’s community engagement process dating back to at least July 2019 included detailed discussions of numerous issues, including the Campus Plan Permitted Uses. NLC and SV-WHCA and their members have been active participants in this process and this specific issue. On May 10, 2022, Wesley provided a copy of the attached April 13, 2022 Memorandum from Holland & Knight, LLP (co-authored by Norman M. Glasgow, Jr. and Mr. Dettman) specifically addressing the question of whether the proposed New Dormitory is a Permitted Campus Use (“Memorandum”). The Memorandum was provided electronically by undersigned counsel to Mr. Dennis Paul (President of NLC), Mr. William Krebs (Interim President and Counsel of SV-

Mr. Anthony J. Hood, Chairman

June 9, 2022

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WHCA), Dr. Jeffrey Kraskin and Mr. Thomas Smith (long-time SV-WHCA members), Ms. Elizabeth Pemmerl (ANC 3D02 Commissioner) and numerous other Community Liaison Committee members. Having received, reviewed and previously commented on the Memorandum, neither NLC nor SV-WHCA can reasonably claim that they are surprised and/or prejudiced by the testimony that will be offered by Mr. Dettman that will be based on the Memorandum and related issues that may be raised at the public hearing.

Finally, Mr. Dettman was only designated as an expert witness in response to the numerous very recent joint filings by NLC and SV-WHCA, including Request for Party Status in Opposition filed May 27, Zoning Analysis filed June 6, and Pre-Hearing Statement filed June 8. NLC and SV-WHCA having chosen to elevate Permitted Campus Uses as the primary focus of its opposition, cannot reasonably claim that Wesley is not entitled to provide a detailed response to the Zoning Commission through Mr. Dettman's expert testimony.

Under these circumstances, Wesley respectfully requests to introduce Mr. Dettman's expert direct and rebuttal testimony at the scheduled June 13, 2022 Public Hearing.

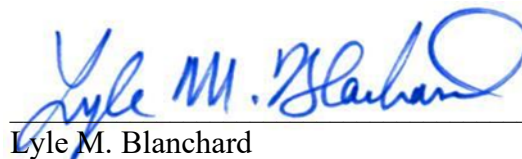
Thank you for your consideration.

Sincerely,  
GREENSTEIN DELORME & LUCHS, P.C.



---

John Patrick Brown, Jr.



---

Lyle M. Blanchard

**CERTIFICATE OF SERVICE**

I hereby certify that on June 9, 2022, the foregoing letter was delivered via electronic mail to the following:

**Ms. Jennifer Steingasser**

**Mr. Joel Lawson**

**Mr. Stephen Cochran**

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**William F. Krebs**

Spring Valley-Wesley Heights Citizens

Association

w\_krebs@msn.com



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John Patrick Brown, Jr., Esq.

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**From:** John Patrick Brown Jr.

**Sent:** Tuesday, May 10, 2022 4:23 PM

**To:** [dennis.paul@verizon.net](mailto:dennis.paul@verizon.net); [johnhdalton@outlook.com](mailto:johnhdalton@outlook.com); [jlkraskin@rcn.com](mailto:jlkraskin@rcn.com); [rrscholz@msn.com](mailto:rrscholz@msn.com); [jtscholz@msn.com](mailto:jtscholz@msn.com); [epemmerl@gmail.com](mailto:epemmerl@gmail.com); [derryallen@aol.com](mailto:derryallen@aol.com); [wclarksonv@gmail.com](mailto:wclarksonv@gmail.com); [tmfsmith@rcn.com](mailto:tmfsmith@rcn.com); [srepp@ncher.org](mailto:srepp@ncher.org); [mnlehnhard@aol.com](mailto:mnlehnhard@aol.com); [herzsj@gmail.com](mailto:herzsj@gmail.com); [mebuckles@me.com](mailto:mebuckles@me.com); [ahg71139@aol.com](mailto:ahg71139@aol.com); [mlinson@gmail.com](mailto:mlinson@gmail.com); [w\\_krebs@msn.com](mailto:w_krebs@msn.com); '3d02@anc.dc.gov' <[3d02@anc.dc.gov](mailto:3d02@anc.dc.gov)>

**Subject:** Wesley Seminary: Holland & Knight Zoning Analysis

All, As promised last night, I am forwarding the Holland & Knight Zoning Analysis provided to Wesley. Chip Glasgow will be available at Thursday night's CLC meeting to answer any questions on this issue.

Also, Tomorrow I will be able to provide a copy of the Gorove Slade Comprehensive Transportation Review report prepared for DDOT once it has been accepted by DDOT.

Feel free to contact me with any questions.

Many thanks, Pat

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# Holland & Knight

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Holland & Knight LLP | www.hklaw.com

Norman M Glasgow, Jr.  
(202) 419-2460  
norman.glasgowjr@hklaw.com

## MEMORANDUM

TO: David McAllister-Wilson, President  
Wesley Theological Seminary

FROM: Norman M. Glasgow, Jr.  
Shane L. Dettman

DATE: April 13, 2022

RE: Wesley Theological Seminary (WTS) Campus Plan, Massachusetts Avenue, NW

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In considering the above-referenced campus plan application, note the following:

As a part of the campus plan review a question has been raised as to whether the proposed dormitory use, which would be limited to WTS students and faculty and their families, and American University (“AU”) undergraduate and graduate students, is a permitted campus plan use which can be approved by the Zoning Commission as a part of the campus plan process.

1. Precedent.

The strongest argument in support of the WTS position that the proposed dormitory use is permitted is found in the Zoning Commission order approving the current WTS campus plan (Z.C. Order No. 05-40C), a copy of which is Attachment A. Pages 2 and 3 of this Order specifically provides that non-WTS students can occupy beds in the WTS dorms. This precedent involves this very campus, is irrefutable, and directly part of the attached order. Thus from a use standpoint, it is clear that this use is permitted and has been permitted by the Zoning Commission for several years.

2. “Education, College/University” use category.

The description of the “Education, College/University” found in the Zoning Regulations at 11-C DCMR § 200.2(j)(2) provides “[a]bove uses may include but are not limited to accessory, athletic and recreational areas, dormitories, cafeterias, ancillary commercial uses, multiple academic and administrative buildings or sports facilities.” Emphasis added.

In addition, the Zoning Administrator has confirmed that the proposed dormitory use is permissible. See Attachment B.

Therefore, the proposed dormitory use is clearly an educational use pursuant to the above quoted use category.

3. Ownership

Ownership of the dormitory appears to be a question that somehow having the dormitory constructed and owned by a student housing developer constitutes a “commercial dormitory” and is not permitted under the regulations. In addressing this assertion, as set forth above the proposed dormitory is expressly stated as a permitted use on the WTS campus. Both the term “commercial dormitory” and the concept of a “commercial dormitory” do not exist in the Zoning Regulations. A “dormitory” as the permitted use is the controlling factor.

The ownership structure of a ground lease is just that - an ownership structure, not a use structure. A ground lease is simply a financing mechanism for WTS, a non-profit, to not be subject to unrelated business income tax (UBIT) for various types of uses and is commonly used in the District of Columbia and elsewhere for that purpose. In this instance, the land will remain owned by WTS, and at the conclusion of the ground lease the building will also be owned by WTS. This is a perfectly permissible utilization of campus planned property.

Indeed, there is another example of this exact type of ownership structure on the Georgetown University (“GU”) campus. Specifically, the recently constructed hospital building on the GU campus is owned and operated by Medstar Health. The hospital is subject to a ground lease with GU, and the use was specifically permitted by the Zoning Commission. *See Attachment C*, excerpts from the case file for Z.C. Case Number 16-18A, including highlighted portion of Z.C. Order 16-18A. Thus, ownership structure is not an impediment to the Zoning Commission’s review and approval of the proposed dormitory on the WTS campus. Since the proposed dormitory use is not a commercial use under the Zoning Regulations, it is not subject to the provisions of 11-X DCMR Section 101.3.

Likewise, since the dormitory is not a commercial use it cannot be seen as being used as a part of a campus plan process to create general commercial activities or developments that would be inconsistent with the Comprehensive Plan. The dormitory will provide student housing for WTS, so is directly related to its educational mission and provides for the viability of WTS to remain on site in the future. The Comprehensive Plan Future Land Use Map (“FLUM”) designation is Institutional, and a dormitory limited to WTS and AU use is clearly consistent with that designation (See 11-X DCMR Section 101.4).

4. Zoning Regulation Legislative History

The current campus plan regulations were established as part of the Zoning Commission’s preparation and adoption of the 2016 Zoning Regulations. This included the adoption of the provisions relating to “commercial uses” contained at 11-X DCMR §§ 101.3 and 101.4. *See Attachment D*. The legislative history surrounding the adoption of these provisions clearly demonstrates that commercial use or commercial activity on the campus would be for facilities

David McAllister-Wilson

April 13, 2022

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such as a Starbucks, UPS store or other privately held retail or service venues located on a campus. *See* Office of Planning report at Attachment E.

On the basis of the foregoing, the analysis leads to the conclusion that the proposed dormitory use to house WTS and AU students is permitted if approved by the Zoning Commission.

Attachments

# **ATTACHMENT A**



**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Zoning Commission**



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 05-40C  
Z.C. Case No. 05-40C  
(Wesley Theological Seminary of the United Methodist Church)  
(Minor Modification of Campus Plan @ Square 1600)  
July 10, 2017**

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (“Commission”) was held on July 10, 2017. At the meeting, the Commission approved an application of the Wesley Theological Seminary of the United Methodist Church (“Wesley” or “Applicant”), for a minor modification of Condition No. 5 of its current Campus Plan (“Campus Plan”) to permit an increase in the amount of housing to be leased to non-Wesley graduate students for a limited time period in the RA-1 zone at 4500 Massachusetts Avenue, N.W. (Square 1600, Lots 6, 7, 8, and 9) (“Property”). Because the modification was deemed minor, a public hearing was not conducted. The minor modification request was made pursuant to § 703.2 of the Commission’s Rules of Practice and Procedures, which are codified in Subtitle Z of Title 11 of the District of Columbia Municipal Regulations (“DCMR”).

**SUMMARY ORDER**

The Applicant filed a minor modification application with the Commission on June 9, 2017 (and submitted a revised application on June 15, 2017), for a minor modification of Condition No. 5 of its current Campus Plan (Z.C. Order No. 05-40B (August 17, 2016)), pursuant to 11-Z DCMR § 703.2.

The Commission approved the establishment of the Wesley Campus Plan in 2006, subject to conditions, pursuant to Z.C. Order 05-40. In 2012, the Commission approved Z.C. Order No. 05-40A which allowed a modification of Wesley’s original Campus Plan (2006-2015) and a further processing of the Campus Plan to permit construction of a new three-story residence hall with 76 beds and lower-level central plant facilities located on the western portion of the Campus near University Avenue. The Amended Campus Plan was approved to December 31, 2025.

In 2016, the Commission modified the Campus Plan and approved, among other things, a modification to shorten the time period of the Campus Plan to be valid until December 31, 2019, pursuant to Z.C. Order No. 05-40B. In addition, Condition No. 5 was further modified so that in the event that any of the student housing provided for in Straughn Hall was not needed to house Wesley students, the amended Campus Plan allowed the Applicant to: 1) allow Straughn Hall to be leased and occupied by no more than 55 non-Wesley graduate students through May 31, 2019; and 2) prohibited Wesley students from being denied housing to allow for non-Wesley graduate students.

Condition No. 5, which allows a certain number of non-Wesley graduate students to live in Wesley housing, is the subject of the minor modification.

There has been a decline in admission (reduction of tuition revenue) and reduced demand for on-campus housing for Wesley students. The requested minor modification will allow a total of 67 non-Wesley graduate students to reside in Wesley's on-campus housing through December 31, 2019, when the current Campus Plan expires. The minor modification will fill vacant beds and provide much needed financial support to Wesley and its sustainability in its current location; it will also accommodate the strong unmet demand for convenient and affordable housing to non-Wesley graduate students in the area.

Wesley is located within the jurisdiction of ANC 3D and borders ANC 3E. ANC 3D and ANC 3E were automatically parties to this case, and ANC 3D submitted a report in support of the minor modification. The single member district commissioner of ANC 3D also submitted a letter in support. The Spring Valley-Wesley Heights Citizens Association ("SV-WHCA") and Neighbors for A Livable Community ("NLC"), jointly submitted a letter in support. SV-WHCA was granted party status in the original proceeding and therefore was allowed to file a response to the minor modification application. No one opposed the application. The Office of Planning ("OP") submitted a report indicating no objection to the requested modification and recommended approval.

Based on the record before the Commission, and having given great weight to the OP and ANC reports, and having considered the support of SV-WHCA and NLC, the Commission determined that the minor modification did not change the material facts upon which the Commission based its original approval of the application and granted the request for the minor modification at a public hearing pursuant to 11Z DCMR § 703.2 and § 703.17(b).

The Commission further determined that since the decision is not adverse to any party, a summary form of order, instead of an order accompanied by findings of fact and conclusions of law, may be used pursuant to 11-Z DCMR § 604.7.

It is, therefore, **ORDERED** that the application is **APPROVED** and the Campus Plan is hereby modified so that the following **CONDITION NO. 5**, as stated in Z.C. Order No. 05-40B, is revised as follows (revisions appear in **bold text**):

5. The Applicant shall provide a maximum of 172 beds during the term of the Campus Plan. In the event any of the student housing in Straughn Hall ("Straughn Housing"), **Carroll Hall ("Carroll Housing"), or the New Residential Building ("New Housing")** is not needed to house Wesley students:
  - a. Applicant may allow the Straughn Housing to be leased and occupied by not more than fifty-five (55) non-Wesley graduate students through **December 31, 2019**;
  - b. **Applicant may allow the Carroll Housing to be leased and occupied by not more than six (6) non-Wesley graduate students through December 31, 2019**;
  - c. **Applicant may allow the New Housing to be leased and occupied by not more than twenty-six (26) non-Wesley graduate students through December 31, 2019**;

- d. No Wesley students shall be denied housing to allow for housing of non-Wesley graduate students; **and**
- e. **Applicant will not sell or lease any part of the Wesley Campus to the American University for university use during the term of the current Wesley Campus Plan ending on December 31, 2019.**

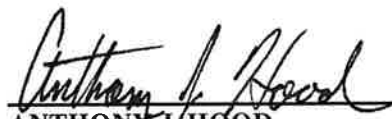
The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.1 et seq. (the "Act"), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, 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 also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violations will be subject to disciplinary action.


On July 10, 2017, upon the motion of Commissioner Turnbull, as seconded by Vice Chairman Miller, the Zoning Commission took **FINAL ACTION** to **APPROVE** the application at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *DC Register*; that is on August 18, 2017.

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

A majority of the Commission members approved the issuance of this Order.

  
\_\_\_\_\_  
ANTHONY J. HOOD  
CHAIRMAN  
ZONING COMMISSION

 for  
\_\_\_\_\_  
SARA A. BARDIN  
DIRECTOR  
OFFICE OF ZONING

# **ATTACHMENT B**

---

**From:** LeGrant, Matt (DCRA) <matthew.legrant@dc.gov>  
**Sent:** Friday, January 31, 2020 2:00 PM  
**To:** Cynthia.Giordano@saul.com  
**Cc:** John Patrick Brown Jr. <JPB@gdllaw.com>; Lawson, Joel (OP) <joel.lawson@dc.gov>  
**Subject:** Washington Theological Seminary ; 4500 Massachusetts Avenue NW  
**Importance:** High

Cynthia Giordano:

By means of this email I agree with the analysis and summary in the email below, and as shown on the attachments, and specifically that:

- We met on 12/12/19, along with John 'Pat' Brown, and representatives of the Wesley Theological Seminary ("WTS") and Landmark Properties ("Landmark") to discuss the below matter.

- WTS and Landmark Properties are planning to develop a new dormitory/student residence hall (“Project”) on the campus of WTS which is located at 4500 Massachusetts Avenue, N.W. which is zoned RA-1 and subject to the campus plan provisions of the Zoning Regulations.
- The 12/12/19 meeting was in follow-up to a previous meeting with the Office of Planning [OP] staff (copied here) which questioned the student residence hall/dormitory use because only a portion of the beds (approximately 20%) will be occupied by WTS students. The rest will be leased to other officially enrolled undergraduate and graduate university students most of which will be American University students given the adjacency of the AU campus and a shortage of beds on campus for all of their students.
- OP questioned whether this occupancy profile would point towards an apartment house zoning classification, as opposed to a dormitory use.
- As we discussed, the applicable 2016 Zoning Regulations do not define the term “dormitory”, or “student residence hall”.
- As a result, I looked at Webster’s dictionary definition of “dormitory” for guidance [see attached], and the excerpted relevant section is:
  - “A residence hall providing rooms for individuals or for groups usually without private baths.”
- As we further discussed, Landmark and WTS asserted that Webster’s definition is somewhat outdated as today’s universities provide dormitory rooms which often include private baths and on occasion, kitchens.
- Currently, WTS has student housing in Carroll Hall which includes efficiency and two-bedroom apartments for married students and families. The Carroll Hall units will be replaced by similar units in the new building to be constructed.
- I suggested that you survey other area universities to support that assertion and provide it to me [Please see attached].
- Further, regarding occupancy by non WTS students, WTS is currently providing occupancy to students with the approval of the Zoning Commission (see the attached ZC Order Nos. 05-40B, 05-40C and pending issuance 05-40D), albeit for a limited period of time.

- I conclude that a new student residence project which includes units featuring private baths and kitchens, and offering occupancy to non WTS students, can be considered a dormitory use, pursuant to the Zoning Regulations.
- The Zoning Commission pursuant to the campus plan and further processing procedures will be the ultimate arbiter of the proposed dormitory use specifics.

DISCLAIMER: This email is issued in reliance upon, and therefore limited to, the questions asked, and the documents submitted in support of the request for a determination. The determinations reached in this email are made based on the information supplied, and the laws, regulations, and policy in effect as of the date of this email. Changes in the applicable laws, regulations, or policy, or new information or evidence, may result in a different determination. This email is **NOT** a "final writing", as used in Section Y-302.5 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations), nor a final decision of the Zoning Administrator that may be appealed under Section Y-302.1 of the Zoning Regulations, but instead is an advisory statement of how the Zoning Administrator would rule on an application if reviewed as of the date of this email based on the information submitted for the Zoning Administrator's review. Therefore this email does **NOT** vest an application for zoning or other DCRA approval process (including any vesting provisions established under the Zoning Regulations unless specified otherwise therein), which may only occur as part of the review of an application submitted to DCRA.

**Matthew Le Grant**

Zoning Administrator

Department of Consumer and Regulatory Affairs

Government of the District of Columbia

1100 4<sup>th</sup> St SW, Washington DC 20024

[Matthew.legrant@dc.gov](mailto:Matthew.legrant@dc.gov)

202 442-4576

**From:** Giordano, Cynthia A. [<mailto:Cynthia.Giordano@saul.com>]

**Sent:** Friday, January 31, 2020 7:34 AM

**To:** LeGrant, Matt (DCRA) <[matthew.legrant@dc.gov](mailto:matthew.legrant@dc.gov)>

**Cc:** John Patrick Brown Jr. <[JPB@gdlaw.com](mailto:JPB@gdlaw.com)>

**Subject:** FW: Washington Theological Seminary ; 4500 Massachusetts Avenue

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Matt,

Resurrecting the email below from before the holidays. We are moving forward with this project and OP would probably appreciate a written acknowledgement from you that the proposed dormitory use is indeed a dormitory. You may find the recent Georgetown University Zoning Commission

case of interest wherein OP found and the Commission concurred that this proposed student housing project is a dormitory and not subject to IZ (unless it ceases to be exclusively rented to students.) Thank you.

Cynthia

**SAUL EWING**  
**ARNSTEIN**  
**& LEHR** <sup>LLP</sup>

**Cynthia A. Giordano**

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---

**From:** Giordano, Cynthia A.

**Sent:** Friday, December 20, 2019 9:49 AM

**To:** 'LeGrant, Matt (DCRA)'

**Cc:** John Patrick Brown Jr.; 'Eric Leath'; Jason Doornbos; Sophie Macicek; 'Cochran, Stephen (OP)'; Campusano-Aguero, Nathaly

**Subject:** Washington Theological Seminary ; 4500 Massachusetts Avenue

Mr LeGrant.

Thanks so much for meeting with me, Pat Brown and representatives of the Wesley Theological Seminary (“WTS”) and Landmark Properties (“Landmark”) last Thursday 12/12.

As you may recall, WTS and Landmark Properties are planning to develop a new dormitory/student residence hall (“Project”) on the campus of WTS which is located at 4500 Massachusetts Avenue, N.W. which is zoned RA-1 and subject to the campus plan provisions of the Zoning Regulations. Our meeting was in follow-up to a previous meeting with the Office of Planning staff (copied here) which questioned the student residence hall/dormitory use because only a portion of the beds (approximately 20%) will be occupied by WTS students. The rest will be leased to other officially enrolled undergraduate and graduate university students most of which will be American University students given the adjacency of the AU campus and a shortage of beds on campus for all of their students. OP questioned whether this occupancy profile would point towards an apartment house zoning classification as opposed to a dormitory



use.

As we discussed the applicable 2016 Zoning Regulations do not define “dormitory or “student residence hall”. As a result, we looked at Webster’s dictionary definition for guidance. It was of somewhat limited utility : “a residence hall providing rooms for individuals or for groups usually without private baths.” As we further discussed, Landmark and WTS asserted that Webster’s definition is outdated as today’s universities provide dormitory rooms which include private baths and even kitchens. Currently, WTS has student housing in Carroll Hall which includes efficiency and two-bedroom apartments for married students and families. The Carroll Hall units will be replaced by similar units in the new building to be constructed. You suggested that we survey area universities to support that assertion and provide it to you. It is attached. Further, regarding occupancy by non WTS students , WTS is currently providing occupancy to students with the approval of the Zoning Commission (see the attached ZC Order Nos. 05-40B, 05-40C and pending issuance 05-40D).

Your assistance in confirming via a response to this email that a new student residence project which includes units featuring private baths and kitchens and offering occupancy to non WTS students can be considered a dormitory use pursuant to the Zoning Regulations. Of course, the Zoning Commission pursuant to the campus plan and further processing procedures will be the ultimate arbiter of the proposed dormitory use specifics.

Thank you in advance for your consideration.

Cynthia

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[administrator@gdllaw.com](mailto:administrator@gdllaw.com) <<mailto:administrator@gdllaw.com>>  
THANK YOU.

"Saul Ewing Arnstein & Lehr LLP (saul.com)" has made the following annotations:

+~~~~~+

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**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Zoning Commission**



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 05-40C**

**Z.C. Case No. 05-40C**

**(Wesley Theological Seminary of the United Methodist Church)  
(Minor Modification of Campus Plan @ Square 1600)**

**July 10, 2017**

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (“Commission”) was held on July 10, 2017. At the meeting, the Commission approved an application of the Wesley Theological Seminary of the United Methodist Church (“Wesley” or “Applicant”), for a minor modification of Condition No. 5 of its current Campus Plan (“Campus Plan”) to permit an increase in the amount of housing to be leased to non-Wesley graduate students for a limited time period in the RA-1 zone at 4500 Massachusetts Avenue, N.W. (Square 1600, Lots 6, 7, 8, and 9) (“Property”). Because the modification was deemed minor, a public hearing was not conducted. The minor modification request was made pursuant to § 703.2 of the Commission’s Rules of Practice and Procedures, which are codified in Subtitle Z of Title 11 of the District of Columbia Municipal Regulations (“DCMR”).

**SUMMARY ORDER**

The Applicant filed a minor modification application with the Commission on June 9, 2017 (and submitted a revised application on June 15, 2017), for a minor modification of Condition No. 5 of its current Campus Plan (Z.C. Order No. 05-40B (August 17, 2016)), pursuant to 11-Z DCMR § 703.2.

The Commission approved the establishment of the Wesley Campus Plan in 2006, subject to conditions, pursuant to Z.C. Order 05-40. In 2012, the Commission approved Z.C. Order No. 05-40A which allowed a modification of Wesley’s original Campus Plan (2006-2015) and a further processing of the Campus Plan to permit construction of a new three-story residence hall with 76 beds and lower-level central plant facilities located on the western portion of the Campus near University Avenue. The Amended Campus Plan was approved to December 31, 2025.

In 2016, the Commission modified the Campus Plan and approved, among other things, a modification to shorten the time period of the Campus Plan to be valid until December 31, 2019, pursuant to Z.C. Order No. 05-40B. In addition, Condition No. 5 was further modified so that in the event that any of the student housing provided for in Straughn Hall was not needed to house Wesley students, the amended Campus Plan allowed the Applicant to: 1) allow Straughn Hall to be leased and occupied by no more than 55 non-Wesley graduate students through May 31, 2019; and 2) prohibited Wesley students from being denied housing to allow for non-Wesley graduate students.

Condition No. 5, which allows a certain number of non-Wesley graduate students to live in Wesley housing, is the subject of the minor modification.

There has been a decline in admission (reduction of tuition revenue) and reduced demand for on-campus housing for Wesley students. The requested minor modification will allow a total of 67 non-Wesley graduate students to reside in Wesley's on-campus housing through December 31, 2019, when the current Campus Plan expires. The minor modification will fill vacant beds and provide much needed financial support to Wesley and its sustainability in its current location; it will also accommodate the strong unmet demand for convenient and affordable housing to non-Wesley graduate students in the area.

Wesley is located within the jurisdiction of ANC 3D and borders ANC 3E. ANC 3D and ANC 3E were automatically parties to this case, and ANC 3D submitted a report in support of the minor modification. The single member district commissioner of ANC 3D also submitted a letter in support. The Spring Valley-Wesley Heights Citizens Association ("SV-WHCA") and Neighbors for A Livable Community ("NLC"), jointly submitted a letter in support. SV-WHCA was granted party status in the original proceeding and therefore was allowed to file a response to the minor modification application. No one opposed the application. The Office of Planning ("OP") submitted a report indicating no objection to the requested modification and recommended approval.

Based on the record before the Commission, and having given great weight to the OP and ANC reports, and having considered the support of SV-WHCA and NLC, the Commission determined that the minor modification did not change the material facts upon which the Commission based its original approval of the application and granted the request for the minor modification at a public hearing pursuant to 11Z DCMR § 703.2 and § 703.17(b).

The Commission further determined that since the decision is not adverse to any party, a summary form of order, instead of an order accompanied by findings of fact and conclusions of law, may be used pursuant to 11-Z DCMR § 604.7.

It is, therefore, **ORDERED** that the application is **APPROVED** and the Campus Plan is hereby modified so that the following **CONDITION NO. 5**, as stated in Z.C. Order No. 05-40B, is revised as follows (revisions appear in **bold text**):

5. The Applicant shall provide a maximum of 172 beds during the term of the Campus Plan. In the event any of the student housing in Straughn Hall ("Straughn Housing"), **Carroll Hall ("Carroll Housing"), or the New Residential Building ("New Housing")** is not needed to house Wesley students:
  - a. Applicant may allow the Straughn Housing to be leased and occupied by not more than fifty-five (55) non-Wesley graduate students through **December 31, 2019;**
  - b. **Applicant may allow the Carroll Housing to be leased and occupied by not more than six (6) non-Wesley graduate students through December 31, 2019;**
  - c. **Applicant may allow the New Housing to be leased and occupied by not more than twenty-six (26) non-Wesley graduate students through December 31, 2019;**

- d. No Wesley students shall be denied housing to allow for housing of non-Wesley graduate students; **and**
- e. **Applicant will not sell or lease any part of the Wesley Campus to the American University for university use during the term of the current Wesley Campus Plan ending on December 31, 2019.**

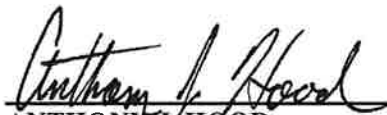
The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.1 et seq. (the "Act"), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, 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 also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violations will be subject to disciplinary action.


On July 10, 2017, upon the motion of Commissioner Turnbull, as seconded by Vice Chairman Miller, the Zoning Commission took **FINAL ACTION** to **APPROVE** the application at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *DC Register*; that is on August 18, 2017.

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

A majority of the Commission members approved the issuance of this Order.

  
\_\_\_\_\_  
**ANTHONY J. HOOD**  
**CHAIRMAN**  
**ZONING COMMISSION**

 for  
\_\_\_\_\_  
**SARA A. BARDIN**  
**DIRECTOR**  
**OFFICE OF ZONING**

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Zoning Commission**



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 05-40B**  
**Z.C. Case No. 05-40B**  
**(Wesley Theological Seminary of the United Methodist Church –**  
**Modification of Campus Plan)**  
**July 14, 2016**

Application No. 05-40B of the Wesley Theological Seminary of the United Methodist Church (“Seminary” or “Applicant”), pursuant to 11 DCMR § 3129.7 of the Zoning Regulations, for a modification of its current Campus Plan (Z.C. Order No. 05-40A (June 14, 2012)) to: 1) limit the term of the Campus Plan to December 31, 2019; 2) allow not more than 55 non-Wesley graduate students to occupy Straughn Hall through May 31, 2019; 3) waive the required traffic monitoring surveys for so long as the enrollment head count is below 505; and 4) increase the number of neighborhood liaison committee meetings to three times annually in the D/R-5-A Zone District at 4500 Massachusetts Avenue, N.W. (Square 1600, Lots 6, 7, 8 and 9).

**HEARING DATE: July 14, 2016**

**DECISION DATE: July 14, 2016 (Bench Decision)**

**SUMMARY ORDER**

The Applicant filed an application with the Commission for the District of Columbia (“Commission”) on April 13, 2016, for a modification of its current Campus Plan (Z.C. Order No. 05-40A (June 14, 2012)), pursuant to 11 DCMR § 3129.7, requesting that American University (“AU”) undergraduate students be allowed to occupy Straughn Hall for the 2016-2017 academic year and that AU graduate students be allowed to occupy vacant beds in Straughn Hall in subsequent years.

After the filing of the original modification request, the Seminary continued discussions with its neighbors, Advisory Neighborhood Commission (“ANC”) 3D, and AU. As a result of these discussions, the Seminary on May 20, 2016 revised its original Modification to: 1) eliminate the request to house 55 AU undergraduate students in Straughn Hall; 2) limit the term of the current Campus Plan to December 31, 2020; 3) waive the required traffic monitoring surveys for so long as the Seminary's enrollment remains below its enrollment for the 2011-2012 academic year; and 4) increase the number of neighborhood liaison committee meetings to three times annually.

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

The Commission provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, by mail to ANC 3D, and to owners of property within 200 feet of the site. The Seminary is located within the jurisdiction of ANC 3D and borders ANC 3E. ANC 3D was automatically a party to this case and submitted a letter in support with conditions. ANC 3E did not participate in this case. Party status in support was granted to the Spring Valley-Wesley Heights Citizens Association (“SV-WHCA”). No one opposed the application.

The Office of Planning (“OP”) submitted a report indicating no objection to the requested modifications and recommended approval. The District Department of Transportation (“DDOT”) submitted a report indicating no objection to the requested modifications, provided the Applicant complete a traffic monitoring survey during the fall semester of 2016. The Commission concluded that based on the 27% decrease in enrollment from a peak of 569 (head count) for FY 2007 (July 1, 2006 - June 30, 2007) to 400-415 for the current FY 2017, no traffic monitoring survey is warranted and would be an unnecessary financial burden on the Applicant’s limited resources. ANC 3D and SV-WHCA in their testimony strongly supported waiving the traffic monitoring survey requirement based on the substantially reduced enrollment, lack of any evidence of negative traffic and parking impacts of the Applicant’s current operations, and unnecessary expense.

As directed by 11 DCMR § 3119.2, the Commission required the Applicant to satisfy the burden of proving the requested modifications to the approved Campus Plan (Z.C. Order No. 05-40A), pursuant to 11 DCMR § 3104.1 will be in harmony with the general purposes and intent of the Zoning Regulations and Zoning Map and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map; and pursuant to 11 DCMR § 210.1, that the use as a university in a residential zone shall be located so it is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions. Additionally, the requested modifications are minor in scope, limited in duration and do not substantially or materially change the facts upon which the Commission based its original approval of the Campus Plan. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Commission to grant this application would not be adverse to any party.

Based on the record before the Commission, and having given great weight to the OP and ANC reports and testimony, the Commission concludes that the Applicant has met the burden of proof pursuant to 11 DCMR §§ 3104.1 and 210.1.

The Commission further determined to waive the requirements of 11 DCMR § 3125.5, that the order of the Commission be accompanied by findings of fact and conclusions of the law.

It is therefore **ORDERED** that the application is **APPROVED** and the Campus Plan is hereby modified so that the following **CONDITIONS** as stated in Z.C. Order 05-40A are revised as follows, with revisions should in **bold** text:



1. Approval of the Campus Plan shall be valid until December 31, **2019**.
5. The Applicant shall provide a maximum of 172 beds during the term of the Campus Plan. **In the event any of the student housing in Straughn Hall ("Straughn Housing") is not needed to house Wesley students:**
  - a. **Applicant may allow the Straughn Housing to be leased and occupied by not more than fifty-five (55) non-Wesley graduate students through May 31, 2019; and**
  - b. **No Wesley students shall be denied housing to allow for housing of non-Wesley graduate students.**
- 10(J). The Seminary shall fully implement and comply with the TDM Plan submitted into the record. The TDM Plan shall mandate that no new trips be generated beyond 53 morning peak hour trips and 71 afternoon peak hour trips. It shall also require that a traffic monitoring survey be performed annually during the first two years following approval of the new Campus Plan and then every other year for the duration of the term of the Campus Plan. **The traffic monitoring survey requirement shall be suspended for so long as the Seminary's enrollment remains below the enrollment for the 2011-2012 academic year (505 headcount).** Within 60 days of each traffic monitoring survey required, Wesley Seminary shall provide to DDOT, ANC 3D, the Spring Valley-Wesley Heights Citizens Association, and Neighbors For A Livable Community a report indicating its compliance with the TDM Plan. Compliance with the TDM Plan will be measured by whether the Seminary maintains a morning peak hour trip generation of no greater than 53 trips and an afternoon peak hour trip generation of no greater than 71 trips. If the Seminary exceeds either of the trip caps for two consecutive reporting periods, additional TDM measures shall be initiated.
- 10(T). The Seminary shall establish a neighborhood liaison committee that meets **three times** annually and is limited to participation by representatives of ANC 3D, the Spring Valley-Wesley Heights Citizens Association, Neighbors For A Livable Community, and individual residents of Spring Valley living within 200 feet of the Seminary's property line at University Avenue.

The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.1 et seq. (the "Act"), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identification, 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 also prohibited

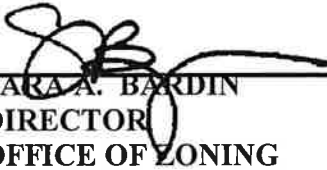
by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violations will be subject to disciplinary action.

**VOTE: 5-0-1** (Robert E. Miller, Anthony J. Hood, Marcie I. Cohen, Peter G. May and Michael G. Turnbull to approve).

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

A majority of the Commission members approved the issuance of this Decision and Order.

ATTESTED BY:

  
\_\_\_\_\_  
SARA A. BARDIN  
DIRECTOR  
OFFICE OF ZONING

**FINAL DATE OF ORDER: August 17, 2016**

### **Nebraska Hall:**

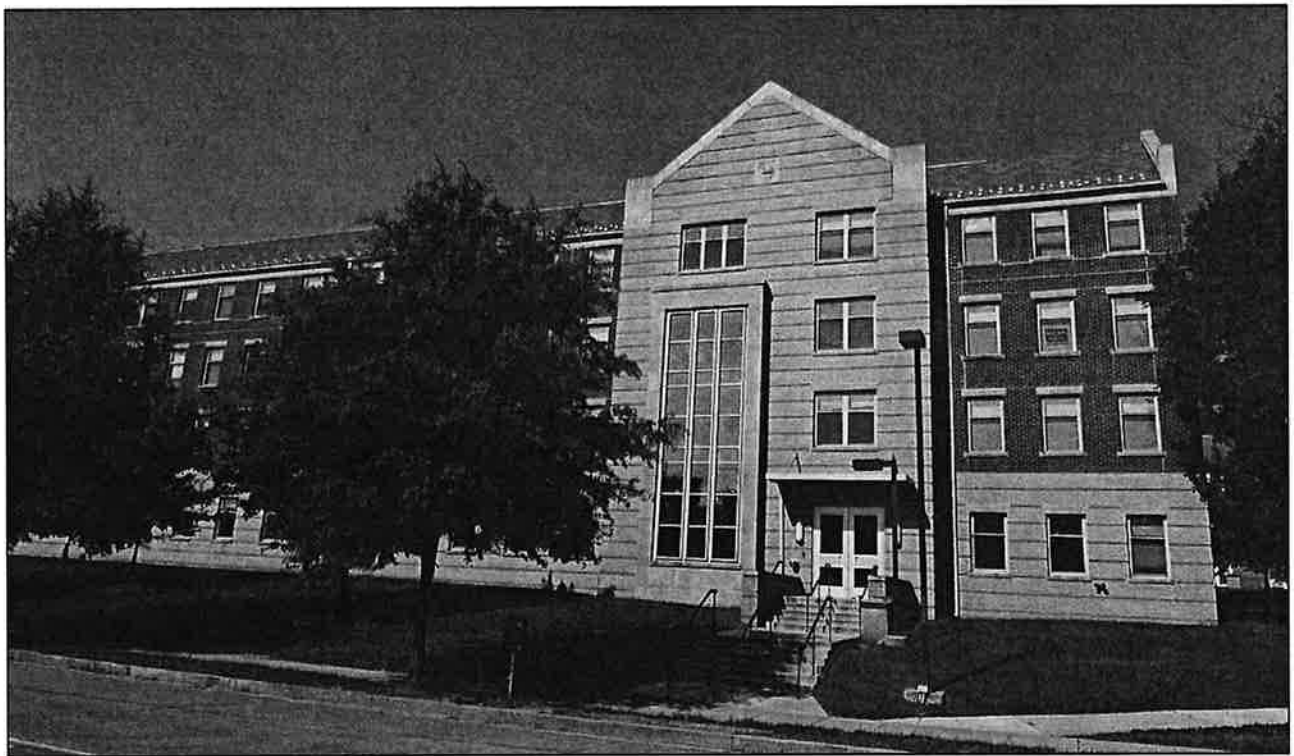
- 250 total beds comprising of junior and senior students
- Unit Mix
  - One bedroom units
  - Two bedroom units
  - Three bedroom units
  - Four bedroom units
- Unit Amenities
  - Private Bathroom
  - In-unit kitchen
  - Common area
- Community Amenities
  - Each floor has a community laundry room
  - Multi-purpose room located on the first floor to study or socialize



***Nebraska Hall***

### **Millennium Halls:**

- Consists of two residence halls, Millennium North and South
- 350 total beds for upper-class students
- Unit Mix
  - Two bedroom apartment units
  - Three bedroom apartment units
  - Three bedroom suite units
  - Four bedroom apartment units
  - Five bedroom apartment units
- Unit Amenities
  - Private bathroom
  - Common area
  - In-unit kitchen (Apartment units only)
- Community Amenities (each building)
  - Student lounge
  - Laundry facility



***Millennium Halls***

### **Madison Hall:**

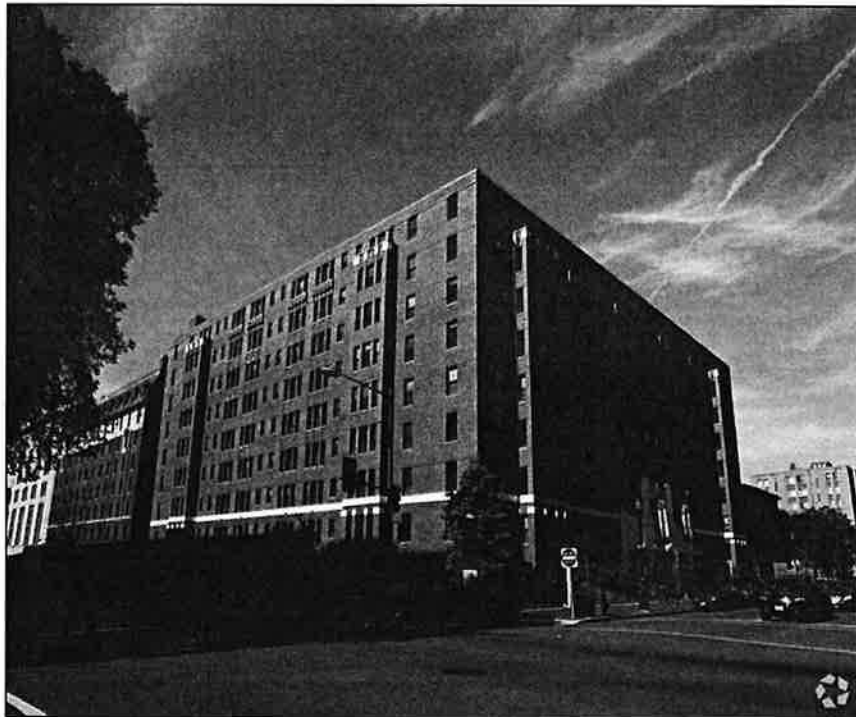
- 222 total beds for first year students
- Unit Mix
  - Two bedroom apartment units
  - Four bedroom apartment units
  - Six bedroom apartment units
- Unit Amenities
  - Private bathroom
  - MicroFridge
- Community Amenities
  - Kitchen facilities on floors 2-8
  - Student lounge in basement
  - Laundry facility
  - Bike storage



***Madison Hall***

### **Thurston Hall:**

- 1,116 total beds comprising of first year students.
- Unit Mix
  - Two bedroom apartment units
  - Three bedroom apartment units
  - Four bedroom apartment units
  - Five bedroom apartment units
  - Six bedroom apartment units
- Unit Amenities
  - Private bathroom
  - Microwave & refrigerator or MicroFridge
- Community Amenities
  - TV lounge
  - Piano lounge
  - Study lounge
  - Laundry facility on each floor
  - Community kitchen
  - Bike storage



***Thurston Hall***

**Nevils Building:**

- Houses upper-class students
- Unit Mix
  - One and two bedroom apartments
  - Four person apartments with two bedrooms
  - Five person apartments with two bedrooms
  - Six person apartments with three bedrooms
- Unit Amenities
  - Living room
  - Kitchen
- Community Amenities
  - Laundry facility
  - TV room



***Nevils Building***

# **ATTACHMENT C**





GEORGETOWN UNIVERSITY

April 18, 2017

Anthony Hood, Chairperson  
D.C. Zoning Commission  
Office of Zoning  
441 4th Street, NW, Suite 200S  
Washington, DC 20001

Re: Application to the Zoning Commission for Further Processing of a Campus Plan,  
Square 1321, Lots 824, 825, 826, and 833

Dear Chairperson Hood and Members of the Commission:

As the owner of the Property referenced above, Georgetown University writes to authorize MedStar Health Inc. and MedStar Georgetown Medical Center, Inc., the lessee of Lots 824, 825, 826, and 833 in Square 1321 on the campus of the University, to act as the Applicant and take all actions of an Applicant in connection with its Application for Further Processing for its proposed Surgical Pavilion project.

Respectfully,

Robin A. Morey

Vice President, Planning and Facilities Management

# Holland & Knight

800 17th Street, Suite 1100 | Washington, DC 20006 | T 202.955.3000 | F 202.955.5564  
Holland & Knight LLP | www.hklaw.com

Norman M. Glasgow Jr.  
(202) 419-2460  
norman.glasgowjr@hklaw.com

April 18, 2017

*VIA IZIS*

Zoning Commission  
of the District of Columbia  
441 4<sup>th</sup> Street, NW, Suite 210  
Washington, DC 20001

Re: Application to the Zoning Commission for Further Processing of a Campus Plan  
Square 1321, Lots 824, 825, 826, 833

Dear Members of the Commission:

On behalf of MedStar Health, Inc. through its wholly owned not-for-profit subsidiary MedStar Georgetown Medical Center, Inc. d/b/a MedStar Georgetown University Hospital (the "Applicant") we submit herewith an application and supporting materials for the further processing of the 2017-2036 Campus Plan ("2017 Plan") for Georgetown University. The application package meets the filing requirements detailed in Subtitle Z, Chapter 3 of the Zoning Regulations, and includes:

- A check made payable to the D.C. Treasurer in the amount of \$3,250 representing the further processing application fee;
- A letter from Georgetown University, the property owner, authorizing the Applicant to file the application;
- A letter from the Applicant authorizing Holland & Knight to file the application;
- Certified surveyors plat of the property;
- A copy of the notice of intent to file the Further Processing Application that was mailed to surrounding property owners and parties;
- A list of property owners within 200 feet of the property; and

ZONING COMMISSION  
District of Columbia  
CASE NO.16-18A  
EXHIBIT NO.2

April 18, 2017  
Page 2

- A statement in support of the application and supporting exhibits, including architectural plans and drawings.

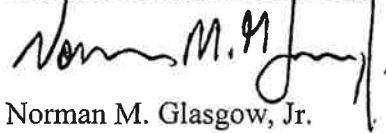
The 2017 Plan approved on December 1, 2017, addresses many of the requirements of Subtitle Z such as:

- The Student Count (Subtitle Z, Section 302.1(d));
- Employee Count (Subtitle Z, Section 302.10(e));
- Neighborhood Context (Subtitle Z, Section 302.10(f));
- Conservation (Subtitle Z, Section 302.10(h)); and
- Explanation of all programs on Campus (Subtitle Z, 302.10(l)).

We look forward to the Commission's consideration of this application.

Very truly yours,

HOLLAND & KNIGHT LLP



Norman M. Glasgow, Jr.

#### Attachments

Cc: Jenifer Steingasser, D.C. Office of Planning (w/ attachments via Hand Delivery)  
Joel Lawson, D.C. Office of Planning (w/ attachments via Hand Delivery)  
Anna Chamberlin, DDOT (w/ attachments via Hand Delivery)  
Advisory Neighborhood Commission 2E (w/ attachments via U.S. Mail)  
Advisory Neighborhood Commission 3D (w/ attachments via U.S. Mail)

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 16-18A**  
**Z.C. Case No. 16-18A**  
**MedStar Georgetown University Hospital**  
**(Further Processing of the 2017-2036 Georgetown University Campus Plan)**  
**Square 1321, Lots 824, 825, 826, 833**  
**June 8, 2017**

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on June 8, 2017, to consider an application by MedStar Health, Inc. (“MedStar”), through its wholly owned not-for-profit subsidiary MedStar Georgetown Medical Center, Inc. d/b/a MedStar Georgetown University Hospital (“MGUH” or the “Applicant”) on behalf of Georgetown University (the “University”), for special exception approval for further processing of the 2017-2036 Georgetown University Campus Plan (the “2017 Campus Plan”) to permit the construction of a new medical/surgical pavilion (the “Surgical Pavilion”) at MGUH (the “Project”).

Pursuant to 11-C DCMR § 1504 the Applicant requested special exception approval from the penthouse requirements of 11-C DCMR §§ 1500.6, 1500.9, and 1502.1. The Applicant also requested special exception approval pursuant to 11-C DCMR § 1402.1 to authorize the construction of a retaining wall to the west of the Surgical Pavilion that is higher than the allowance provided for in 11-C DCMR, Chapter 14. MGUH also requested flexibility to permit minor modifications to the design of the Surgical Pavilion to comply with any conditions of approval and comments from either the Old Georgetown Board of the Commission of Fine Arts.

The Commission considered the Further Processing Application pursuant to Subtitles X and Z of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”). The public hearing was conducted in accordance with the provisions of Subtitle Z, Chapter 4 of the Zoning Regulations. For the reasons stated below, the Commission hereby **APPROVES** the Application.

**FINDINGS OF FACT**

**Application, Parties, and Hearing**

1. On April 18, 2017, pursuant to 11-X DCMR § 900 and in accordance with 11-X DCMR § 101, the Applicant filed an application for special exception approval for further processing of the 2017 Campus Plan to permit construction of the Surgical Pavilion at MGUH. (Exhibits [“Ex.”] 1-8).
2. Pursuant to 11-C DCMR § 1504, the Applicant requested special exception approval from the penthouse setback requirements of 11-C DCMR § 1502.1: (i) for an emergency egress stairwell associated with the hospital’s Federal Aviation Administration (“FAA”) approved helipad that is not setback a distance equal to its height from the rear building wall; and (ii) to have a portion

of the penthouse at the north end that is not setback a distance equal to its height from a building wall that borders an open court. Pursuant to 11-C DCMR § 1504 the Applicant also requested special exception relief from the requirements of 11-C DCMR § 1500.9 to have a mechanical penthouse with enclosing walls that are not a single uniform height and relief from the requirements of 11-C § 1500.6 to have more than a single penthouse enclosure. The Applicant requested special exception approval pursuant to 11-C DCMR § 1402.1 to authorize the construction of a retaining wall to the west of the proposed addition along the east-west access road shown on the 2017 Campus Plan. The retaining wall is higher than the allowance provided for in 11-C DCMR, Chapter 14.

3. At its May 9, 2017, public meeting the Commission provisionally granted party status to the Georgetown University Student Association (“GUSA”). (Exs. 16-16A). GUSA party status was confirmed at the public hearing on the Application on June 8, 2017.
4. On May 19, 2017, the Applicant filed supplemental materials in support of the Further Processing application including additional architectural drawings to address comments from the Office of Planning (“OP”), supplemental and updated transportation information including a memorandum highlighting the aspects of the Comprehensive Transportation Review submitted with the 2017 Campus Plan that are specific to the Surgical Pavilion, revised conditions of approval, and the Applicant’s construction management plan and construction management agreement agreed to by the Applicant and community representatives serving on the Georgetown Community Partnership (“GCP”) Steering Committee. (Exs. 21-21F2).
5. On June 7, 2017, the Applicant filed a consolidated set of architectural drawings. (Exs. 30-30A3).
6. After proper notice, the Commission held a public hearing on the Application on June 8, 2017.
7. The parties to the case were the Applicant, Advisory Neighborhood Commission (“ANC”) 2E, ANC 3D, and GUSA.
8. ANC 2E, the ANC in which the Property is located, submitted a letter in support of the application. (Ex. 25). ANC 3D, submitted a letter in support of the application on June 8, 2017. At the June 8, 2017, public hearing, the Commission waived the requirements of Subtitle Z § 505.2 in order to accept the ANC 3D submission. At the public hearing Chairperson Joe Gibbons of ANC 2E and Commissioner Conrad DeWitte of ANC 3D both testified in support of the Application. Kamar Mack, the President of GUSA, also testified in support of the Application.
9. OP testified in support of the application at the public hearing and indicated that the Department of Environment and Energy was also in support of the application. In addition, the District Department of Transportation (“DDOT”) testified in support of the application.

10. At the public hearing, Nan Bell, representing the Burleith Citizens Association and Jennifer Romm, representing the Citizens Association of Georgetown testified in support of the Application. Ron Lewis, as Co-Chair of the GCP Steering Committee and Don Edwards, as the facilitator for GCP, also testified in support of the Application.
11. There were no letters in opposition filed to the case record and no persons testified in opposition to the Application at the public hearing. John Bray, who lives in Foxhall Village, testified as an undeclared witness regarding questions he had about the west side of the University's campus.
12. At the conclusion of the public hearing, the Commission voted unanimously to approve the Application, including the flexibility requested by the Applicant.

### **The Property**

13. The property that is the subject of this application is Square 1321, Lots 824, 825, 826, and 833 (the "Property"). The Property is located in the R-3 Zone District and within the Georgetown Historic District on the University's campus. The main hospital building is located south of Reservoir Road and at the north end of the campus. The Surgical Pavilion will be an addition to the east side of the main hospital building.

### **Status of the Campus Plan**

14. The Commission approved the 2010-2017 Georgetown University Campus Plan in July 2012. *See* Z.C. Order No. 10-32 (the "2010 Campus Plan"). Pursuant to the 2010 Campus Plan, the University and community parties established the GCP to promote collegial, consensus-based decision making regarding areas of mutual interest and concern. MGUH participates actively in the GCP and is an ex officio member of the GCP's Steering Committee.
15. Since the approval of the 2010 Campus Plan, the University, MGUH, and community parties in the GCP have actively engaged in master planning discussions surrounding the future campus, with a focus on developing a twenty-year successor plan to govern development of the campus.
16. The University filed its 2017 Campus Plan application on September 1, 2016, and on December 1, 2017 the Commission unanimously approved the 2017 Campus Plan. *See* Z.C. Case No. 16-18.
17. The Surgical Pavilion project was discussed extensively within the GCP during the master planning process and was included as a development site in the 2017 Campus Plan.

## **The Surgical Pavilion**

18. The Applicant operates the hospital in accordance with the terms of a lease agreement with the University.
19. Consistent with the approved 2017 Campus Plan, MGUH proposes to construct a new state of the art, six-story, Surgical Pavilion building addition to the existing main hospital.
20. The Surgical Pavilion will have a maximum height of 90 feet measured from the middle of the front of the main hospital building and will also include a mechanical penthouse that has a maximum height of 18 feet, 6 inches. The Surgical Pavilion is located east of the main hospital building and will be connected to the main hospital building at the basement, ground floor, first floor, and fourth floor. The Surgical Pavilion will be constructed on an existing surface parking lot and will contain approximately 450,000 square feet of gross floor area and approximately 644 parking spaces in a below-grade parking garage.
21. The Project includes: (i) the relocation, modernization and expansion of operating rooms; (ii) relocation of ICU and medical/surgical beds; (iii) relocation and expansion of the Emergency Department; (iv) the addition of imaging equipment; (v) backfill projects before and after the Surgical Pavilion is completed; (vi) a satellite pharmacy; (vii) central sterile processing; (viii) materials management depot; (ix) an underground loading dock that includes loading bays that can handle contaminated waste; and (x) a parking garage with approximately 644 below-grade parking spaces. The hospital currently operates approximately 415 beds and after completion of the Project it will be licensed to operate approximately 538 beds.
22. The placement and orientation of the new Surgical Pavilion facilitates the conversion of the remainder of the existing surface parking lots into four expansive new landscaped spaces on the University's campus. Three linked open spaces are located directly to the east of the Surgical Pavilion and create a new "front door" for the University on Reservoir Road. Each open space is paired with and serves as a forecourt for a corresponding University building to its east. The fourth open space, along Reservoir Road, will operate as a forecourt for St. Mary's Hall and give the campus a strong presence and identity along its northern boundary. The four new open spaces and the Surgical Pavilion replace existing expansive surface parking lots with vegetated landscape that is in stark contrast to the current asphalt paving.
23. The Surgical Pavilion is set back from Reservoir Road approximately 175 feet from the south curb. It is aligned with the north façades of the existing hospital building to the west and St. Mary's Hall to the east. The height of the addition matches the height of the existing hospital building and the proposed massing steps down in height and is proportionate to the lower-scaled St. Mary's Hall.
24. The Surgical Pavilion's façade designs are influenced by, and are responsive to, the adjacent open spaces and buildings. Along the east façade two related façade types are employed. A

primary façade expression is employed opposite Darnall Hall and Henle Village along the wider expanse of the north-south campus green. In this location a more regular façade treatment frames the western edge of the space. A monumentally-scaled façade serves as an appropriate backdrop to this important new campus space. Just to the north along that same façade, a related but distinct façade treatment responds to the narrowing of the green space and the lower-scaled campus buildings in close proximity. The façade that faces Reservoir Road has a vertical expression and serves as the symbolic front façade of the proposed Surgical Pavilion.

### **The Purpose and Need for Modernization**

25. The main hospital building was built in 1946 and is in need of major modernization. Much of the existing MGUH facility no longer meets space standards for current health care facility construction, and undersized patient rooms lead to suboptimal use of MGUH's licensed bed capacity. The existing floor-to-ceiling heights make it difficult to accommodate major medical equipment with state-of-the-art-technology to support the critical care services delivered in the hospital. In addition, significant space constraints within the existing hospital have precipitated the creation of operational models of care that are less than optimal and require the unnecessary transport of critical patients between multiple floors of the hospital. Also, multiple hospital departments are significantly undersized which has led to the need to accommodate patients in areas that are inefficient, lack privacy, and are undesirable from a patient care perspective. The lack of available operational beds in the hospital due to space constraints has created bottlenecks within the hospital, which significantly affects patient throughput and requires patients to be observed within the Emergency Department and multiple recovery areas for extended periods of time. These practices create extended lengths of stay and significantly affect the overall patient experience within the hospital.
  
26. In addition, MGUH is currently using nearly every square foot of available space within the existing hospital to provide clinical care. If the hospital were to simply modernize in its existing footprint, it would be required to permanently reduce the number of total patients it could care for because existing clinical spaces (operating rooms, and emergency rooms as well as patient rooms) need to be expanded to provide optimal care. In addition, if the Applicant were to renovate within the existing footprint, it would be forced to close large sections of the hospital, thus substantially limiting the amount and types of care it could provide to the community for several years. This effort would be disruptive to patient care, time consuming, and significantly more expensive overall than the proposed plan. Under the proposed plan, the hospital can continue normal patient care operations while the new Surgical Pavilion is being built. Upon completion of the Surgical Pavilion, surgical, critical care and emergency services will be moved from the existing building into the Pavilion. Several clinical services as well as critical support service departments including, the kitchen, environmental services, IT, central sterile processing, hospital facilities operations, security, administrative spaces and the morgue will remain in the existing hospital facility and will support the entire hospital.



27. The proposed square footage allocations for the Surgical Pavilion conform to the Facility Guidelines Institute's ("FGI") 2014 Guidelines for hospitals, establishing the most current space standards by room function. The FGI is a consensus-based organization, which publishes its recommended standards for health care facilities approximately every four years. The recommended room sizes are only a minimum based on current input from the health care industry. The Applicant will follow the recommendations outlined in the guidelines.

**Further Processing: Compliance with the Requirements of 11- X DCMR § 101**

28. The requested special exception approval complies with the requirements of 11-X DCMR § 101 of the Zoning Regulations. The relevant zoning requirements, and the Applicant's satisfaction of those requirements are addressed below:

*A. Section 101.1-Education use by a college or university shall be permitted as a special exception subject to review and approval by the Zoning Commission after its determination that the use meets the applicable standards and condition of this chapter.*

Georgetown University was founded as an educational institution of higher learning in 1789 and received its federal charter in 1815. The University began operating the hospital in 1898. Today MGUH annually provides training to students from both the school of medicine and the school of nursing, as well as almost 500 residents and fellows through its own accredited graduate medical education programs. Additionally, MGUH works closely with the University's research enterprise to help bring innovative therapies from the scientific laboratory to the patient bedside.

*B. Section 101.2-The uses shall be located so that they are not likely to become objectionable to neighboring property because of noise, traffic, parking, number of students, or other objectionable conditions.*

The Surgical Pavilion will be located adjacent to the existing hospital facilities, across Reservoir Road from residential properties, and west of the Cloisters townhouses. The nearest neighbors to the Surgical Pavilion are all University-related uses. The Applicant has worked extensively with the GCP in order to minimize impacts of the proposed Surgical Pavilion on neighboring properties outside the campus. The GCP and the Applicant have agreed upon a Construction Management Plan, a helicopter noise abatement strategy, and a Traffic Mitigation Plan to mitigate the effects of the proposed Surgical Pavilion during and after construction.

As a part of the agreement, the Applicant has developed its own comprehensive Transportation Demand Management ("TDM") Plan separate from the University's TDM Plan. The Applicant's TDM Plan is aimed at managing traffic impacts associated with its unique population.

MGUH and GCP agreed to a TDM metric of peak hour auto trip reductions and established a Baseline Peak Hour Trip Reduction Goal of 15% below what is forecasted with future growth, which is 5% below existing traffic volumes. MGUH and GCP also established an Aspirational Peak Hour Trip Reduction Goal of 22% below what is forecasted with future growth, which is 12% below existing traffic volumes. MGUH and GCP agreed to three broad categories of trip reduction strategies that allow for flexibility over the twenty years of the new Campus Plan in order to achieve the aforementioned TDM Goals. Those three categories include the following:

- Education and Outreach – This strategy includes supporting a dedicated TDM Program Manager to provide assistance and oversight of MGUH’s car/vanpooling matching and incentives, establishing and managing a centralized commuter information database, organizing and executing TDM educational events, as well as promoting and facilitating enrollment in the regional Guaranteed Ride Home Program.
- Transit Subsidy – This strategy includes subsidizing employee transit expenses as a means to offset commuting costs and encourage more employees to use public transportation instead of driving to MGUH.
- Decanting – This strategy involves relocating certain departments and staff functions to reduce the amount of people arriving at the University during peak hours.

Currently, the University is allotted 4,080 parking spaces, of which 2,700 spaces are allocated for the Applicant’s use. There will be no net change in the number of parking spaces. As part of the Project, a new below-grade parking garage is proposed with approximately 644 parking spaces. Parking in the new garage will replace approximately 300 spaces lost from the removal of Lots A and B, which will be removed to accommodate the Surgical Pavilion. The new parking garage will also allow for the elimination of a significant number of stacked parking spaces in Garage 1, Garage 2, and the Leavey Garage. The removal of the stacked parking will allow for a more user-friendly experience for parkers and will encourage more visitors to park on-campus as opposed to in the neighborhood.

As a result of the agreed upon mitigations in the Construction Management Plan, helicopter noise abatement strategy, and the Traffic Mitigation Plan the amount of noise, traffic, parking, lighting, or visual impacts on neighboring properties will be reduced. The proposed Surgical Pavilion will also not increase the number of students attending classes on the University’s campus.

C. *Section 101.5-The Project Complies with the R-3 Zone development standards.*

11-X DCMR § 101.5 permits a base height of 50 feet for campus buildings, but pursuant to Subtitle D § Section 303.2, the height may be increased to a maximum of 90 feet, not including the penthouse, provided that the building is set back from all lot lines at least one foot for each foot of height exceeding the 50-foot height limit. A non-residential building constructed pursuant to 11-D DCMR § 303.2 shall also be permitted a mechanical penthouse with a maximum height of 18 feet, 6 inches. The maximum floor area ratio (“FAR”) for all buildings on the University’s campus is 1.8. 11-X DCMR §101.5.

The proposed Surgical Pavilion will have a maximum height of 90 feet, excluding the penthouse, and will be removed from all lot lines, at a minimum, a distance of 144 feet. The mechanical penthouse will have a maximum height of 18 feet, 6 inches. The additional gross floor area for the Surgical Pavilion, together with the existing gross floor area of the campus, will result in an FAR of 1.33, which is within the 1.54 FAR approved in the 2017 Campus Plan and below the 1.8 FAR permitted under the Zoning Regulations.

As discussed below, the Applicant requested special exception relief from the retaining wall and penthouse requirements of the Zoning Regulations.

D. *Section 101.8-As a prerequisite to requesting a further processing for each college or university use, the applicant shall have submitted to the Zoning Commission for its approval a plan for developing the campus as a whole, showing the location, height, and bulk, where appropriate, of all present and proposed improvements including, but not limited to, the following: (a) Buildings and parking and loading facilities; (b) Screening, signs, streets, and public utility facilities; (c) Athletic and other recreational facilities; and (d) A description of all activities conducted or to be conducted on the campus, and of the capacity of all present and proposed campus development.*

*Section 101.16 – A further processing of a campus plan building shall not be filed simultaneously with a full campus plan application.*

The Zoning Commission unanimously approved the 2017 Campus Plan at its December 1, 2016, public hearing. As previously stated the further processing application for the Surgical Pavilion was filed on April 18, 2017, after the approval of the 2017 Campus Plan.

E. *Section 101.11-In reviewing and deciding a campus plan application or new building construction pursuant to a campus plan, the Zoning Commission shall consider, to the extent they are relevant, the policies of the District of Columbia Elements of the Comprehensive Plan.*

The proposed Surgical Pavilion is not inconsistent with the goals and policies of the District of Columbia Comprehensive Plan. As shown on the District of Columbia Comprehensive Plan Future Land Use Map, the Property is designated as an institutional use. Part of creating successful neighborhoods is recognizing that institutional uses contribute to a neighborhood's character and help make all communities more livable. *See* 10 DCMR § 218.2.

In addition, the proposed Surgical Pavilion will not adversely affect the character or quality of life in the surrounding residential area. To the contrary, the Project furthers the health of District Residents. The Comprehensive Plan recognizes the importance of hospital uses on university campuses to the economy, character, history and future of the District of Columbia. *See* 10 DCMR §§ 1214.6, 311.7. The District's healthcare institutions and hospitals located on university campuses provide services and resources to the community that could not possibly be provided by the government alone. *See* 10 DCMR §§ 315.2-315.4.

- F. Section 101.12-As an integral part of the application requesting approval of new building construction pursuant to a campus plan, the college or university shall certify and document that the proposed building or amendment is within the FAR limit for the campus as a whole, based upon the computation included in the most recently approved campus plan and the FARs of any other buildings constructed or demolished since the campus plan was approved.*

The additional gross floor area for the Surgical Pavilion, together with the existing gross floor area of the campus, will result in an FAR of 1.33, which is within the 1.54 FAR approved under the 2017 Campus Plan and below the 1.8 FAR permitted under the Zoning Regulations.

- G. Section 101.13-Pursuant to Subtitle Z § 405.1, as soon as the application is accepted, the Office of Zoning shall refer the application to the Office of Planning, the Department of Transportation, and the Department of Energy and Environment for review and written reports.*

The application was referred to the Office of Planning ("OP"), the District Department of Transportation ("DDOT"), and the Department of Energy and Environment ("DOEE") for review and written report. Each of OP, DDOT and DOEE reviewed and reported in writing, and/or in testimony at the hearing on June 8, 2017, that they support the Surgical Pavilion.

### **Special Exception Approval**

29. Pursuant to 11-C DCMR § 1504, the Applicant requested special exception approval from the penthouse setback requirements of 11-C DCMR § 1502.1: (i) for an emergency egress

stairwell associated with the hospital's Federal Aviation Administration ("FAA") approved helipad that is not setback a distance equal to its height from the rear building wall; and (ii) to have a portion of the penthouse at the north end that is not setback a distance equal to its height from a building wall that borders an open court. The Applicant also requests special exception relief from the requirements of 11-C DCMR § 1500.9 to have a mechanical penthouse with enclosing walls that are not a single uniform height and relief from the requirements of 11-C DCMR § 1500.6 to have more than a single penthouse enclosure.

30. In this case, the Applicant will provide emergency egress stairwells at the north and south ends of penthouse both with a height of 11 feet. The south egress stairwell will not be setback from the south building wall. The main penthouse enclosure will have a height of 18'6", and at the north end a small portion of the main penthouse enclosure is not setback from the irregular open court. In addition, the Applicant proposes a second mechanical penthouse height of 14'6" for a portion the penthouse along the east side of the building. The rooftop helipad will also be located on a separate platform that has a height of 6'8".
31. Relief granted through a special exception is presumed appropriate, reasonable and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the relief requested are met. Under 11-C DCMR § 1504, special exception relief may be granted from the requirements for penthouses where "[o]perating difficulties such as meeting D.C. Construction Code, Title 12 DCMR requirements for roof access and stairwell separation or elevator stack location to achieve reasonable efficiencies in lower floors; size of building lot; or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly or unreasonable." 11-C DCMR § 1504.1(d). Deviations from the penthouse requirements are permissible provided "[t]he intent and purpose" of Subtitle C, Chapter 1500 "shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely." 11-C DCMR § 1504.1(f).
32. The rooftop helipad represents a key shared objective between MGUH and the surrounding community. It replaces the existing at-grade emergency helicopter landing pad currently located on the west edge of Shaw Field, which is located approximately 650 feet from the nearest MGUH building entrance and over 785 feet from the current Emergency Department, with a new rooftop landing pad that is located directly above the new Emergency Department and surgical suites. The new rooftop helipad also mitigates community impact concerns, is less disruptive to University activities, and reduces internal campus vehicular congestion, while providing state of the art medical care to patients that arrive under critical circumstances.
33. FAA clearance guidelines require the helipad to be fifty feet in diameter with an associated seventy-six foot clear diameter final approach and takeoff area. The National Fire Protection Association ("NFPA") 418, Standards for Heliports, requires that the helipad be

served by no fewer than two separate means of egress. NFPA 418 also requires that the means of egress serving the helipad must be remotely located and at least thirty-feet and ninety-degrees apart from each other relative to the landing zone. The first means of egress will be accessed from the enclosed mechanical penthouse north of the helipad and the second means of egress will be located on the south side of the helipad in a separate stair enclosure. Accommodating a second means of egress on the east or west sides of the helipad is not feasible given the narrow massing of the pavilion and the mandated clearance guidelines. In addition to the above stated clearances guidelines, the location is also a result of FAA mandated flight paths.

34. The Project has received concept approval from the Old Georgetown Board ("OGB") and the Commission of Fine Arts ("CFA"), which includes the penthouse as proposed. In addition, all of the adjacent buildings are utilized by the University and the penthouse will not impact the light or air of any adjacent buildings since there is no building directly abutting the south and east building walls. The Applicant has made every effort to comply with the setback and enclosure requirements. There is no alternative location for the required egress stairwell that would meet the setback requirements, comply with FAA clearance guidelines, and the NFPA 418, which requires two means of egress from the helipad separated by 36 feet and 90 degrees or greater in plan. Inclusion of the helipad also reduces the amount of space within the main mechanical penthouse enclosure by approximately 5,600 square feet, which could otherwise have been used to house equipment to serve the building's hospital use.
35. As a hospital, the building also requires more mechanical penthouse equipment space than an office building, multifamily residential building, or other commercial mixed-used building. Hospital air handling units are mandated to have (i) higher peak load air delivery (approximately 15% higher cubic feet per minute per gross square foot); (ii) filters downstream of supply fans, which add ten feet of length; (iii) full building humidification, which adds five feet of length for humidifier and downstream absorption distance); and (iv) twice the minimum outside air ventilation with preheat coils, which adds five feet of length. In addition, air handling units in a hospital operate 24 hours a day, 7 days a week, 365 days a year, which necessitates units that are 10%-15% greater in volume over a typical air handling unit in order to comply with the energy code. Air handling units in hospitals are also cross-connected for redundancy, resulting in significantly more ductwork in the penthouse.
36. The hospital use also includes a myriad of exhausts that are not required in office buildings, multifamily residential buildings, or other commercial mixed-use buildings. The additional exhausts include: airborne isolation, emergency department triage and decontamination, pharmacy compounding hoods, and exhausts for hazardous material storage areas, such as chemical and biological waste. These types of exhaust are required to discharge at a minimum of ten feet vertically and horizontally from accessible maintenance areas, which results in recesses in the penthouse to preclude visible portions of the exhaust systems protruding above the penthouse enclosure.

37. All options to locate mechanical equipment in other areas of the building have been explored. A two-story mechanical area is planned to support the operating rooms on Levels 1 and 2 of the Surgical Pavilion and as a result no other mechanical equipment can be located in the two story mechanical area. Furthermore, below grade space has been maximized within the limits of the University ground lease between existing building structures to accommodate utility head-end rooms and a chiller plant to supplement the chilled water provided by the University central plant to meet the low temperature operating room requirements. Reductions in the proposed mechanical penthouse area would require either relocation of: (i) the below grade drop-off and patient pickup; (ii) the below grade loading area and associated central sterile processing and materials management program spaces; or (iii) the above grade program spaces required by the Certificate of Need issued by the District of Columbia Department of Health.
38. There is also no feasible alternative to providing penthouse enclosing walls of varying heights and multiple penthouse enclosures. Providing for enclosing walls of a uniform height and single penthouse enclosure would require greater setback relief on the east side of the penthouse and it would also result in the elimination of the rooftop helipad.
39. The Applicant requests special exception relief pursuant to 11-C DCMR § 1402.1 to authorize the construction of a retaining wall to the west of the proposed addition along the east-west access road shown on the 2017 Campus Plan. The retaining wall is higher than the allowance provided for in Subtitle C, Chapter 14 and has a height ranging from approximately one foot on the western edge of the wall to a maximum height of approximately 25 feet along the eastern portion of the retaining wall as shown on the Retaining Wall Plan included in the architectural plans. The east-west connector road extends from the hospital complex to the west and then connects out to Reservoir Road to the north. There will be a retaining wall adjacent to and on the south side of this roadway. The east-west road is located on interior lots and is not adjacent to any residential properties. As a result, the regulations limiting the height of retaining walls are unduly burdensome since the retaining wall will be largely unseen from neighboring residential properties which are located approximately 650 feet to the west. Furthermore, the Applicant demonstrated that there was no reasonable alternative to the construction of the retaining wall; due to the grade change, a slope would encroach upon and eliminate the existing athletic field to the south of the proposed roadway.

#### **The Old Georgetown Act & Commission of Fine Arts**

40. The Applicant met with the Old Georgetown Board (“OGB”) staff on numerous occasions and presented architectural drawings for consideration to OGB on November 05, 2015, February 04, 2016, May 05, 2016, June 16, 2016, July 07, 2016 and September 01, 2016. The meetings and presentations included the proposed Surgical Pavilion and penthouse, the landscaped campus green over the below-grade parking structure, and traffic/site circulation related issues. At the meeting held on September 1, 2016, OGB granted concept approval for the design and recommended that the Project be forwarded to the Commission on Fine Arts (“CFA”). As a condition of OGB’s concept approval, OGB requested that

the Applicant present the Project again at the design development stage for further review and approval prior to the issuance of construction permits by DCRA. As a result, the Applicant filed architectural plans with CFA on September 7, 2016, which plans were granted concept approval at the CFA's September 15, 2016 public meeting. (Ex. 7D).

41. Since the Applicant will present the Project to OGB and/or CFA at the design stage, the Applicant requests flexibility to permit minor modifications to the design to comply with any conditions of approval and comments from either OGB or CFA.

### **Office of Planning**

42. By report dated May 26, 2017, OP recommended approval of the requested special exception for Further Processing of the approved 2017 Campus Plan and the requested special exception relief for the proposed penthouses pursuant to Subtitle C § 1504 and the proposed retaining wall pursuant to Subtitle C § 1402. OP also recommended approval of the Applicant's request to allow flexibility for minor modifications resulting from conditions required by the OGB and CFA. (Ex. 23). OP testified in support of the Project at the hearing on June 8, 2017.

### **District Department of Transportation**

43. By report dated May 30, 2017, DDOT stated that it had no objection to the requested special exception approval subject to the additional mitigations listed on page 3-4 of its report including: (i) a commitment to track employee travel patterns and short-term impacts of construction to ensure that MGUH is providing sufficient Georgetown University Transportation Service ("GUTS") services, transit benefits, and bicycle and pedestrian accommodations to meet demand; (ii) a commitment to providing a GUTS stop on the north side of campus adjacent to MGUH, within one month of completion of the Surgical Pavilion; (iii) providing monthly transit subsidies of up to \$80 per employee per month during construction in lieu of the \$255 transit subsidy for 180 employees as proposed by the Applicant; (iv) installing a real-time transit information screen that is easily viewable from the main MGUH entrance or lobby and includes GUTS information; (v) including bike routing and wayfinding information in the new Surgical Pavilion wayfinding plan, to be completed concurrently with the completion of the Surgical Pavilion.
44. At the public hearing, and through the testimony of the Applicant's expert traffic witness Jami Milanovich, the Applicant agreed to: (i) track employee GUTS ridership on a quarterly basis; (ii) install a real-time transit information screen that is easily viewable from the main MGUH entrance or lobby and includes GUTS information; and (iii) include bike routing and wayfinding information on the Surgical Pavilion wayfinding plan, to be completed concurrently with the completion of the Surgical Pavilion. In lieu of the bus turnaround proposed by DDOT, MGUH will add additional mini shuttle capacity to transport passengers from the current stop on the south side of campus to the hospital until the new permanent bus circle opens. MGUH will also provide a \$255 per month subsidy,



the maximum allowed pursuant to federal law, for 180 employees who currently drive to the hospital. If the desired result is not achieved, the subsidy initiative may be revised. DDOT testified that it supports the Project at the hearing on June 8, 2017.

#### **Department of Energy and Environment**

45. At the public hearing OP testified that DOEE had no comments and confirmed DOEE's support for the Project on the record.

#### **Advisory Neighborhood Commissions, the GCP and GUSA**

46. ANC 2E, the ANC within which the Property is located, submitted a letter dated June 1, 2017, indicating that at a duly noticed public meeting on May 30, 2017, at which notice was properly given and a quorum was present, ANC 2E voted unanimously to support the Project. (Ex. 25.) ANC 2E Chair Joe Gibbons testified at the public hearing on behalf of ANC 2E and in support of the Project.
47. ANC 3D, the ANC across the street from the Property, submitted a letter dated June 8, 2017, indicating that at a duly noticed public meeting on June 7, 2017, at which notice was properly given and a quorum was present, ANC 3D voted 6-1-0 to support the Project. (Ex. 35.) At the June 8, 2017, public hearing, the Commission waived the requirements of 11-Z DCMR § 505.2. Commissioner Conrad DeWitte testified at the public hearing on behalf of ANC 3D and in support of the Project.
48. The GCP submitted a letter date June 1, 2017, indicating support for the Project. (Ex. 37.) Ron Lewis as Co-Chair of the GCP Steering Committee and Don Edwards as facilitator for the GCP, also testified in support of the Application at the public hearing on June 8, 2017.
49. The Commission afforded the views of ANC 2E and 3D the "great weight" to which they are entitled under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)).
50. At its May 9, 2017, public meeting the Commission provisionally granted party status to GUSA. (Exs. 16-16A). GUSA party status was confirmed at the public hearing on the Application on June 8, 2017. Kamar Mack, the President of GUSA, also testified in support of the Application at the public hearing on June 8, 2017.

#### **CONCLUSIONS OF LAW**

1. The Commission may grant special exception approval to authorize the construction of a new structure devoted to a university-related use, provided the requirements of 11-X DCMR § 101 of the Zoning Regulations are met. Based upon the record before the Commission, the Commission concludes that the Applicant has met its burden of proof pursuant to 11-X DCMR

§ 101 of the Zoning Regulations. The Surgical Pavilion has been located and designed so that it is not likely to become objectionable because of noise, traffic, number of students, or other objectionable impacts. It will further the goals of the Campus Plan as well as the relevant goals of the Comprehensive Plan. The Commission further concludes that granting the relief will not tend to adversely affect the use of neighboring property in accordance with the Zoning Regulations and Map and is not inconsistent with policies of the District of Columbia Elements of the Comprehensive Plan.

2. The Commission concludes that the Applicant met its burden of proof for special exception approval from the penthouse setback requirements of 11-C DCMR §§ 1500.6, 1500.9, and 1502.1 since the proposed penthouse is in harmony with the purpose and intent of the Zoning Regulations and meets the test for special exception relief under Subtitle C § 1504.
3. The Commission concludes that the Applicant met its burden of proof pursuant 11-C DCMR § 1402.1 for special exception approval of a retaining wall, since the retaining wall is in harmony with the purpose and intent of the Zoning Regulations and meets the test for special exception relief under Subtitle C § 1402.1.
4. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the affected ANC's recommendations. The Commission has carefully considered the ANC 2E's and ANC 3D's resolutions in support of the application, and their testimony in support of the Project at the hearing and agrees that approval of the Further Processing application and associated special exception approval is appropriate.
5. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001)), to give great weight to OP recommendations. The Commission has carefully considered the OP's recommendation in support of the application and agrees that approval of the Further Processing application and associated special exception approval is appropriate.
6. The Commission concludes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations.

### **DECISION**

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission **ORDERS APPROVAL** of the application for special exception approval for the Further Processing of the 2017 Campus Plan. The Zoning Commission also **ORDERS APPROVAL** of the application for special exception approval from the penthouse requirements of 11-C DCMR §§ 1500.6, 1500.9, and 1502.1 and the retaining wall requirements of 11-C DCMR, Chapter 14. This approval is subject to the following guidelines, conditions, and standards.

1. MGUH shall construct the Surgical Pavilion in accordance with the plans titled “Consolidated Further Processing Plans”, prepared by Shalom Baranes Associates dated June 7, 2017, and marked as Exhibits 30A1-30A3 of the record. Since the Applicant will present the Project to OGB and/or CFA at the design stage, the Applicant shall have flexibility to make minor modifications to the design to comply with any conditions of approval and comments from either OGB or CFA.
2. MGUH shall ensure that the routine flight path for helicopters will approach and depart the Hospital's helipad linearly from and towards the Potomac River over the center of the Georgetown University Campus. Safety considerations may, on rare occasions, require pilots to alter this path due to weather or other ambient situations. The helipad will be constructed with sound-baffling material using the best available technology. Helicopter noise monitoring in the neighborhood will take place at unannounced times at least twice a year in agreed-upon locations, or more frequently if off-route or noise issues develop. This condition is based on the expectation that helicopter flights to MGUH will not exceed an average of 1.5 flights per day.
3. MGUH shall ensure that the MGUH Emergency Department facilities will provide no more than 32 universal treatment bays and one sexual assault nurse examiner (“SANE”) suite. MGUH will work with the GCP in requesting DC Fire and Emergency Management Systems (“FEMS”) to adopt "quiet community" protocols to reduce ambulance siren usage in the neighborhood.
4. Transportation Management
  - a. MGUH shall implement TDM and trip reduction measures sufficient to ensure peak hour vehicle trips shall not exceed 1,245 trips during the AM peak hour and 939 trips during the PM peak hour (“Performance Target Commitment”). In addition, as an aspirational goal, MGUH will strive to achieve a peak hour trip threshold that is below 1,153 AM peak hour trips and 870 PM peak hour trips. MGUH shall be permitted to update the TDM Plan, in consultation with the GCP and DDOT, to enhance its efficacy over the life of the 2017 Campus Plan consistent with the performance standards set forth above.
  - b. To assess MGUH’s efforts towards achieving the Performance Target Commitment and aspirational goal described above, MGUH shall conduct an Annual Transportation Performance Monitoring Study. The Study shall include: (1) measurement of MGUH vehicle trip generation; (2) a MGUH-wide transportation survey (including determination of mode split); (3) GUTS ridership counts utilizing AVL and APC data; (4) a summary report of TDM activities and expenditures; (5) parking counts; and (6) during construction of the Surgical Pavilion, the tracking of GUTS ridership on a quarterly basis. The Annual Transportation Performance Monitoring Study shall be conducted in accordance with the methodology outlined on pages 73-79 of the CTR (Exhibit 33 of the 2017 Campus Plan Record), as modified with the five items listed on page 17 of the DDOT Report (Exhibit 43 of the 2017 Campus Plan Record). The Annual Transportation Performance Monitoring Study shall be submitted to the GCP and DDOT by December 31 of each year, during the term of the 2017 Campus Plan.

- c. If the Results of the Annual Transportation Performance Study reveal that the Performance Target Commitment outlined above is not met, MGUH will work with the GCP and DDOT to review the then-current TDM strategies and associated expenditures to develop an increasingly robust plan to augment existing and/or implement more stringent TDM strategies to enhance performance. Furthermore, MGUH shall conduct and submit a Supplemental Performance Monitoring Study by June 30 of the same academic year to track progress toward the Performance Target Commitment until such time as the Commitment is met. If the Performance Target Commitment is not met in the following fall, the additional TDM strategies and associated expenditures will become increasingly more stringent, and MGUH shall work with the GCP and DDOT to develop additional TDM strategies not currently included in the TDM Plan until such time as the Performance Target Commitment is met.
5. Electric Car Charging Stations. MGUH shall install two 240-volt electric car charging stations in the Surgical Pavilion parking garage. The car charging stations shall be installed prior to opening of the Surgical Pavilion.
6. Real Time Transit Information Screen. MGUH shall install a real-time transit information screen that is easily viewable from the main MGUH entrance or lobby and includes GUTS information, to be completed concurrently with the completion of the Surgical Pavilion.
7. Bike Routing and Wayfinding. MGUH shall provide bike routing and wayfinding information on the Surgical Pavilion wayfinding plan, to be completed concurrently with the completion of the Surgical Pavilion.
8. As part of the Project, MGUH and the University shall construct a roadway running from east to west connecting Entrance 4 to the Leavey Garage (the "New Road"). During and after construction of the Surgical Pavilion, MGUH will not utilize Entrance 4 or the New Road for any construction related traffic (including employee shuttles and trucks), commercial vehicles, or services/deliveries. During and after construction, MGUH intends to use Entrance 4 and the New Road solely for vehicular transportation (i.e. patients, visitors and employees traveling in cars). During construction, ambulances will continue to use Entrance 2, unless the use of a different entrance or the limited use of the road is necessary due to the particular urgent needs of a patient. Any change to MGUH's use of Entrance 4 or the New Road shall be permitted only if reviewed by and concurred to by the GCP, based on a demonstration that measures will be implemented to mitigate adverse impacts (e.g. noise, light, and air quality). The limitations on the University's use of Entrance 4 are addressed in 2017 Campus Plan Condition 20(d).
9. Construction Management Plan. Construction relating to the Project shall take place according to the written Construction Management Agreement and Plan between MGUH and the community representatives of the GCP, dated May 14, 2017 and marked as Exhibit 28A1-28A2 of the record, that incorporates the construction plan outline presented to the community representatives of the GCP on September 14, 2015. The agreement provides for no idling of trucks on Reservoir Road; off-site parking to replace on-site staff and visitor parking, such as the surface parking on Lots A and B, that will be unavailable during construction;

environmental, noise and vermin controls to protect the community; communication procedures and records that maximize effective communication from and to the community during construction; at the completion of construction of the Project or during construction if need be, repair and resurfacing as needed of any part of Reservoir Road damaged by construction traffic; and a similar construction management plan to be in effect for back-fill and other on-campus construction relating to MGUH.

10. As part of the Construction Management Agreement discussed in Condition 7 above, MGUH shall work with the University and the GCP to develop a plan acceptable to applicable regulatory agencies in the District of Columbia for vehicular, pedestrian, and bicycle circulation into, around the perimeter of, and within the campus during all phases of construction of the Project. The plan will be submitted to the GCP for review and comment.
11. Mini Shuttles. MGUH shall provide additional mini shuttle capacity to transport GUTS passengers from the current stop on the south side of the University's campus to the hospital until the new permanent bus turnaround south of the Lombardi Comprehensive Cancer Care Center is operational.
12. Reporting and Compliance Review. By November 30 of each year following approval of its Further Processing application for the Surgical Pavilion, MGUH shall file an annual compliance report with the GCP that addresses MGUH's compliance with the above conditions.

The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act") the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identify or expression, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, genetic information, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant to comply shall furnish grounds for the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

At its public hearing on June 8, 2017, upon the motion of Commissioner Miller as seconded by Commissioner Hood, the Zoning Commission unanimously **APPROVED** the Application by a vote of 4-0-1 (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve; Peter Shapiro not present and not voting).

In accordance with the provisions of 11-Z DCMR § 604.9 of the Zoning Regulations, this Order shall become final and effective upon publication in the D.C. Register; that is, on

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ANTHONY J. HOOD  
Chairman  
Zoning Commission

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SARA BARDIN  
Director  
Office of Zoning

# **ATTACHMENT D**



## **CHAPTER 1 CAMPUS PLANS, SCHOOL PLANS, AND MEDICAL CAMPUS PLANS**

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### **100 GENERAL PROVISIONS**

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- 100.1 The provisions of this chapter shall apply to the following:
- (a) Education uses as a university or college when permitted as a special exception;
  - (b) Private schools when permitted as a special exception; and
  - (c) Medical campus plans when permitted as a special exception.
- 100.2 The intent of regulating campus facilities is to:
- (a) Promote well planned and designed educational campuses;
  - (b) Encourage long-term facilities planning for these uses;
  - (c) Minimize negative impacts of campuses on surrounding residential areas; and
  - (d) Provide consistency and transparency to the campus planning process.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).

### **101 CAMPUS PLANS**

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- 101.1 Education use by a college or university shall be permitted as a special exception subject to review and approval by the Zoning Commission under Subtitle X, Chapter 9 after its determination that the use meets the applicable standards and conditions of this chapter.
- 101.2 The uses shall be located so that they are not likely to become objectionable to neighboring property because of noise, traffic, parking, number of students, or other objectionable conditions.
- 101.3 Any commercial use customarily incidental to a university use in an R, RF, or RA zone, or as an adjunct use to a university building, shall be subject to the following conditions:
- (a) There shall be a demonstrated and necessary relationship between the use and the university functions;
  - (b) The total floor area of all commercial uses, including basement or cellar space, shall occupy no more than ten percent (10%) of the gross floor area of the total campus plan floor area; and
  - (c) The commercial use shall be located so that it will not become objectionable to non-university residential neighbors due to hours of operation, noise, parking, loading,





lighting, trash, or other operational characteristics that are not customarily associated with a residential use.

101.4 The campus plan process shall not serve as a process to create general commercial activities or developments unrelated to the educational mission of the applicant or that would be inconsistent with the Comprehensive Plan.

101.5 The following development standards shall apply to the maximum total density of all buildings and structures on the campus in an R, RF, RA, or RC-1 zone:

<b>TABLE X § 101.5: MAXIMUM TOTAL DENSITY OF ALL BUILDINGS AND STRUCTURES</b>		
Zone	Maximum Height (Feet)	Maximum Floor Area Ratio
All R and RF zones	50	1.8
RA-1, RA-2, RA-6, RA-7, RA-8, RC-1	50	1.8
RA-3, RA-4, RA-5, RA-9, RA-10	90	3.5

101.6 Because of permissive increases as applicable to normal bulk requirements in the low-density zones regulated by this title, it is the intent of this subsection to prevent unreasonable campus expansion into improved low-density zones.

101.7 In calculating floor area ratio (FAR), the land area shall not include public streets and alleys, but may include interior private streets and alleys within the campus boundaries.

101.8 As a prerequisite to requesting a further processing for each college or university use, the applicant shall have submitted to the Zoning Commission for its approval a plan for developing the campus as a whole, showing the location, height, and bulk, where appropriate, of all present and proposed improvements including, but not limited to, the following:

- (a) Buildings and parking and loading facilities;
- (b) Screening, signs, streets, and public utility facilities;
- (c) Athletic and other recreational facilities; and
- (d) A description of all activities conducted or to be conducted on the campus, and of the capacity of all present and proposed campus development.


101.9 The further processing of specific buildings, structures, and uses within an approved campus plan shall be processed as a special exception unless the campus plan approval was included in an order granting a first-stage planned unit development (PUD) for the campus, in which case the further processing shall be in the form of second-stage planned unit development applications filed consistent with the conditions of the approved campus plan/PUD.

# **ATTACHMENT E**



**MEMORANDUM**

**TO:** District of Columbia Zoning Commission

**FROM:**  Jennifer Steingasser, Deputy Director, Development Review and Historic Preservation

**DATE:** October 25, 2013

**SUBJECT:** Case No. 08-06A Title 11, Zoning Regulations – Comprehensive Text Revisions – Subtitles A, W, X, Y and Z

**I. INTRODUCTION**

The Comprehensive Plan is a general policy document that provides overall guidance for future planning and development of the city. The first Comprehensive Plan was adopted in 1984 and 1985. In 2006 a new Comprehensive Plan (Comp Plan) was approved, which was the first major revision of the 1985 plan. The Comp Plan was updated in 2011. The Comp Plan’s Implementation chapter (IM-1.3) calls for the substantial revision and reorganization of the zoning regulations:

*The Zoning Regulations need substantial revision and reorganization, ranging from new definitions to updated development and design standards, and even new zones.*

This is the first in a series of hearing reports for case 08-06A. Draft proposed text was provided to the Commission and set down for public hearing on September 9, 2013. This report provides OP’s recommendation on Subtitles A – Authority, W – Mapping X – General Processes, Y – Board of Zoning Adjustment, and Z – Zoning Commission, a summary of the proposed changes relative to the current code chapters (D.C. Municipal Regulations, Title 11) and a summary of Comprehensive Plan policies and actions relevant to the subject subtitles. Each subtitle is discussed in terms of Commission guidance provided to OP and changes to the current text. Additionally, the report notes any clarifying or additional language that may be required or is recommended for inclusion in the September 9, 2013 draft.

**Zoning Commission Action to Date**

The Commission held public hearings on the proposed concepts and then provided guidance to OP between 2008 and 2011. The table below summarizes the actions taken to date by the Zoning Commission relative to each subtitle or topic.

Subtitle	Case Number and Topic	Public Hearing	Guidance Public Meeting
A	Case 08-06-15 Administration, Enforcement And Procedures Guidance	February 17, 2011	March 14, 2011
X	Case 08-06-7 Institutional And Campus Plans Guidance	December 11, 2008	February 23, 2009
Y	Case 08-06-15 Administration, Enforcement And Procedures Guidance	February 17, 2011	March 14, 2011
Z	Case 08-06-15 Administration, Enforcement And Procedures Guidance	February 17, 2011	March 14, 2011



**Advertised Version**

All reports for Case 08-06A respond to the advertised text dated September 9, 2013 (“9/9/13 text”). The 9/9/13 text was posted and continues to be available for viewing on the Office of Planning website ([www.dczoningupdate.org](http://www.dczoningupdate.org)) and the Office of Zoning website ([www.dcoz.dc.gov](http://www.dcoz.dc.gov)) through the IZIS link. An updated copy on a disc was provided to all ANCs, and an updated paper copy was provided to every DC Public library to supplement earlier draft text.

**Repetitions, Omissions, Additions and Clarifications**

OP is aware that certain provisions are repeated throughout the subtitles and that there are phrases that may be inconsistently used (e.g. “by special exception” and “as a special exception”). Provisions may also have been unintentionally omitted due to reformatting of the proposed text.

Some changes have been recommended after additional consultation with the Zoning Administrator’s office since the publication of the 9/9/13 text and review of the guidance discussions. Furthermore, OP has continued to hear from the public and, where possible, has proposed clarification or new language based on input received. These items are addressed in the report as clarifications or errata with suggested additional text. The repetitions and inconsistencies will be reconciled after the public hearings in collaboration with the Office of Attorney General and any direction from the Commission.

**SUBTITLE A**

Subtitle A represents the compilation of current Chapters 1 and 32. The major changes are to zone names.

The revisions propose a reorganization of Title 11 DCMR including new zone groups and names as follows:

- Residential House (R) zones include those zones that permit a single household as a principal use; these zones are currently the R-1, R-2 and R-3 zones, and will include a new single family and a new rowhouse zone for the Georgetown area;
- Rowhouse Flat (RF) zones include those zones that permit more than one household as a principal use, currently the R-4 zone which permits two units per building, and will include two new rowhouse zones that would permit three and four units per building;
- Apartment (A) zones include those residential zones that permit more than four units per building, currently the R-5 zones;
- Mixed Use (M) zones include those zones that permit both residential and commercial uses by right, currently the C, SP, W and CR zones.
- Neighborhood Mixed Use (N) zones include those zones that permit both residential and commercial uses by right and are covered by existing neighborhood commercial overlays, currently the C -1, C-2 and C-3 zones.
- Production Distribution and Repair (PDR) zones include those zones that permit industrial and commercial uses, currently the CM and M zones.

A detailed list of proposed new zone names and their existing equivalent is provided as Attachment A.

**ZC Guidance: Zoning Administrator Flexibility**

Work with the Zoning Administrator to:

1. Consolidate flexibility standards, to the extent practicable, into one location in the regulations;
2. Establish consistency between flexibility across different types of orders; and
3. Determine any criteria by which requests for flexibility should be evaluated.

**Proposed Text:** General authority cited in Subtitle A § 304; Authority for Board of Zoning Adjustment orders cited in Subtitle Y § 703 and for PUDs in Subtitle X § 312.

Clarification/ERRATA:

Additional language is needed in A § 304.5 to clarify that modifications to any building permit authorized by an approved order of the Zoning Commission should be referred to the Commission for its concurrence, similar to the requirement for modifications to a Planned Unit Development. This would encompass design reviews, school plans and campus plans. The following proposed language should replace § 304.5:

304.5 Following approval of any minor modifications under A § 304.4, the Zoning Administrator shall report to the Commission, as applicable or as required by Subtitle X, any modification and his determination for its approval. For building permits that are authorized by an approved order of the Zoning Commission the Zoning Administrator shall report to the Commission any modification approved under A § 304.4. No modified building permit shall be issued for forty-five (45) days after a report is sent to the Commission. If prior to the expiration of this time period the Commission decides that the modification exceeded the scope of a minor modification the Zoning Administrator shall not approve the building permit, but shall instruct the applicant to seek a modification pursuant to the appropriate procedures of this title.

ZC Guidance: Building Permits

Describe which building permits vest the zoning regulations for a property – specifically the following types of building permits under 12 DCMR § 105.1.4:

1. New construction, including constructing, adding to or moving a building or structure;
2. Erect or replace an awning, canopy, tent or other membrane structure, or similar structures as a principal structure;
3. Erect a radio, television or other telecommunications tower; and
4. Change of use or occupancy, increase in load or modification of floor layout of the building or structure.

Proposed Text: Subtitle A § 301.5

Comprehensive Plan Policies:

ZONING ISSUES	COMPREHENSIVE PLAN CITATION	COMPREHENSIVE PLAN TEXT
<b>SUBTITLE A AUTHORITY</b>		
Comprehensive Regulation Review	Policy IM-1.3	The Zoning Regulations need substantial revision and reorganization, ranging from new definitions to updated development and design standards, and even new zones.
Electronic Media	Policy IM-1.5.5	Enhance communication between residents, organizations, and the District by providing access to information through electronic media and other methods.

SUBTITLE W

This subtitle is proposed for the geographic descriptions of zones that have unique boundaries. The subtitle includes the descriptions of the zones currently identified as overlays and which are proposed to be new zones; it will also include the boundary description of neighborhood specific zones such as the proposed two new Georgetown zones, R-19 and R-20.

The purpose of the subtitle is to provide “ease of use” for the user of the code. Once mapped, there will be little reference to the geographically defined boundaries; the zones will be fully reflected in the Zoning Maps which will be electronically produced, updated and available through the Office of Zoning. The boundaries are also reflected within the orders that create the zones. Including the boundaries as text descriptions within each zone adds dozens of pages to the zone subtitles. Placing them in one central subtitle reduces the bulk of the regulatory chapters. There are no proposed changes to the any of the boundaries as they are currently defined in the existing overlays.

The 9/9/13 draft includes purposeful repetition of geographic boundary information, specifically Subtitle H, Neighborhood Commercial zones. Once the Commission takes action on the proposed regulations, duplicative language will be deleted and the descriptions will be centralized in Subtitle W.

**ERRATA: W Chapter 119**

The geographic boundaries cited in the 1992 order for the Wesley Heights Overlay District (WHOD) contained an error in street names. When the final WHOD order was adopted in 1992 (ZC Case Number 90-5, Order No. 718) a change to the description confused Nebraska Avenue and New Mexico Avenue. The WHOD is mapped over the R-1-A and R-1-B districts and is now proposed as R-14 and R-15. The boundary has always been reflected correctly on the zoning maps, but the error was carried forward into the proposed new regulations. The error, and opportunity to correct it, was brought to our attention by Mr. Heimert. The proposed text should be corrected to reflect the accurate boundary of the Nebraska Avenue:

*The line then runs east along the northern property line of Lot 28 of Square 1521 to Foxhall Road, then runs north along the west boundary of the Foxhall Road right-of-way to New Mexico-Nebraska Avenue. The line then runs northeast along the center line of New Mexico-Nebraska Avenue to the point of origin at the intersection of New Mexico and Nebraska Avenues, N.W.*

**SUBTITLE Y and Z**

Subtitle Y contains the Board of Zoning Adjustment Rules of Practice and Procedure currently in Chapter 31. The major modifications reflect electronic filing procedures, change to filing dates as set forth in the following table, clarification that an application must be complete at time of filing with a full statement how the application meets the variance or special exception standards, and guidance provided.

	<b>Filing Deadlines Prior to BZA Hearing</b>	
	<b>Current Code Requirement</b>	<b>Proposed Code Requirements</b>
Supplemental Information by the Applicant	14 days	21 days (Y 300.11)
Transportation Consultant report	20 days	45 days (Y 300.12)
Government Agency Reports	7 days	10 days (Y 405.2)

The increase in filing time is to allow the community and government agencies time to review and process additional information and to allow the Board time to review the recommendations of the ANC and government agencies prior to public hearings or action.

Subtitle Z contains the Zoning Commission Rules of Practice and Procedure currently in Chapter 30. The major modifications reflect current practices, electronic filing procedures, and guidance provided.

**ZC Guidance: Selection of a Chairperson**

Create a requirement that the chairperson of the Zoning Commission (ZC) and Board of Zoning Adjustment (BZA) be one of the three District resident mayoral appointees of each body.

Proposed Text: Subtitle Y §102.6 and Subtitle Z § 102.6:

The Chairperson of the Board/Commission shall be selected from one (1) of the three (3) Mayoral appointees to the Board/Commission.

**ZC Guidance: Testimony for ZC and BZA Cases**

Allow individuals wishing to testify to identify themselves as “in favor,” “in opposition,” or “undeclared.”

Proposed Text: Zoning Commission authority in Subtitle Z § 408.9 (i) (Public Hearing Procedures) and Subtitle Z § 506.4 (h) (Rulemaking); Not currently included in in BZA procedures.

ERRATA: Proposed text should also be reflected in BZA rules; Proposed language should be added to Subtitle Y § 409 after (i) with subsequent renumbering:

**Individuals and organization representatives who are undeclared with respect to the application.**

**ZC Guidance: ANC Input at Setdown**

Allow affected ANC(s) to submit an ANC Setdown Form prior to a ZC Setdown Meeting in contested cases other than stand-alone map amendments, in which the ANC(s) can provide comments on particular items related to the proposed project (an administrative instrument totally separate from ANC report that must receive “great weight”).

Proposed Text: Zoning Commission rules in Subtitle Z §§ 400.8 – 400.12 (Setdown Procedures).

**ZC Guidance: Maintenance of Posting**

Require applicants in ZC cases to submit an Affidavit of Maintenance of Posting between two and six calendar days prior to the ZC Hearing.

Proposed Text: Zoning Commission rules in Subtitle Z § 402.10 (Public Notice Requirements).

**ZC Guidance: Ethics Requirements**

Add language regarding existing ethical requirements of Commissioners and Board Members stated in other codes.

Proposed Text: Zoning Commission rules in Subtitle Z § 105 (Rules of Ethics) and to Board of Zoning Adjustment rules in Subtitle Y § 105 (Rules of Ethics).

**ZC Guidance: Right to Stay a Final Decision**

Clarify the ability of the ZC and BZA to stay a final decision pending appeal.

Proposed Text: Zoning Commission rules in Subtitle Z § 701 (Stay of Final Decision and Order) and in Board of Zoning Adjustment rules in Subtitle Y § 701 (Stay of Final Decision and Order).

**ZC Guidance: Expiration of Setdowns**

Institute a two-year sunset clause for setdowns.

Proposed Text: For Design Review and PUDs in Subtitle Z §§ 707.2 and 707.4; and for PUDs in Subtitle X § 314.1.

**ERRATA:** Proposed text Z § 707.4 needs to be amended to include any case requiring a setdown; possible language:

707.4 *An application for a map amendment, text amendment or PUD for which a public hearing has not been held before the Commission within two (2) years from the date of when the Commission set the case down for public hearing shall be deemed dismissed without prejudice.*

**ZC Guidance: ZC Authority**

Clarify that the ZC can determine, at its sole discretion, to hear any case that the BZA can hear. The intent is to make explicit that ZC can choose to decide a variance that is part of another application before the Commission.

**Proposed Text:** Text is proposed in Subtitle X §§ 303.10 (PUD) and 602.3 (Design Review).

**ERRATA:** Proposed text should also be added to Subtitle Z as a new § 100.7 to make the provision universal to Zoning Commission processes; proposed language:

*100.7 The Zoning Commission may at its discretion, hear and decide any application that would otherwise be processed by special exception or variance. Such applications shall be advertised, heard, and decided together with a related text or map amendment, Planned Unit Development, or design review, and no additional Board of Zoning Adjustment hearing shall be required for such requests.*

**Comprehensive Plan Policies:**

ZONING ISSUES	COMPREHENSIVE PLAN CITATION	COMPREHENSIVE PLAN TEXT
<b>SUBTITLE Y BOARD OF ZONING ADJUSTMENT</b>		
<b>SUBTITLE Z ZONING COMMISSION</b>		
Involvement of Advisory Neighborhood Commissions	Policy IM-1.5.1	Include the Advisory Neighborhood Commissions and area residents in the review of development to assist the District in responding to resident concerns. Consistent with the statutory requirements of the DC Code, feedback from the ANCs should be given “great weight” as land use recommendations and decisions are made.
Transparency in Decision-Making	Policy IM-1.5.4	Strongly encourage transparent decision-making in all land use and development matters, making information available and accessible to residents and maintaining open lines of communication with the public as plans are developed.

**SUBTITLE X**

Subtitle X contains the general procedures for the review of Campus Plans, Private Schools Plans, Chanceries, and Planned Unit Development applications. Because these procedures are applicable either throughout several zones groups or city-wide their place in one subtitle allows for easy reference.



Subtitle X represents the compilation of current Chapter 10 Mixed Use Diplomatic Overlay District and Chancery Uses, Chapter 24 Planned Unit Development Procedures; and Chapter 2 Residential Districts, § 206 Public and Private Schools and Staff Residences, and § 210 Colleges and Universities.

**Campus and School Plans**

The changes proposed to the Campus Plan or Private School Plan review procedures are proposed to clarify elements of impacts including guidance for adjunct commercial uses, details for counting students, as well as excluding DC Public School students from enrollment caps.

**ZC Provisional Guidance: Consistent Regulation of Institutional Uses (except public uses and chanceries) in Residential Zones**

Although the Commission was open to this concept, there was concern that the approach might be too broad. After additional review of the number of universities and the range of uses within the initial Institutional Use Group at the time of the guidance, it was determined that the initial recommendation was too broad to adequately protect against adverse impacts in the residential zones and to establish clear review criteria. The draft regulations instead fine-tune Institutional uses by breaking education into three groups and treating them individually.

A review of institutional uses showed an abundance of academic facilities in the District. Ninety-seven (97) universities have some form of academic program offering within the District.

Colleges/Univ in DC with academic courses	Research / Internships	Full Academic Program	Limited Academic / Graduate Programs	Military Or Federal
97 total	6	10	78	3

**Proposed Text:**

The Use Groups in Subtitle B Chapter 2 have been fine-tuned since the original guidance creating three educational use groups and two institutional use groups.

- 1) Educational uses are separated from Institutional uses and three educational use groups are proposed:
  - a. College/University, which is proposed to continue to be subject to campus plan regulations;
  - b. Private Education, which is proposed to continue to be subject to Private School plans; and
  - c. Public Education, which includes DC Public Schools and DC Public Charter Schools which continue to be matter-of-right uses in all zones.
  
- 2) Institutional uses are separated into two groups:
  - a. General, which includes private clubs, non-profit uses and social service providers; and
  - b. Religious-based, which includes places of worship and related schools and residences.

The separation of Institutional uses allows for a more organized approach to impacts and conditions and allows for the maintenance of the Sixteenth Street Heights overlay conditions in Subtitle D.

- 3) Campus Plan requirements and conditions are proposed to be carried forward in generally the same form, but the proposed text includes more specific criteria as part of the special exception review. Detailed requirements for student counts, programs and site development are included

in Subtitle X, Chapter 1 and Chapter 2 for Private School Plans in residential zones (R, RF and A).

The regulations are zone-based, similar to existing standards. There is no matter of right threshold proposed for Campus Plans or Private School Plans except for Subtitle X §101.18 which proposes to permit only a small addition to individual buildings for code compliance relative to ingress and egress.

**ERRATA:** The minor modification provision of X § 101.18 which proposes a by-right modification size of 1,500 square feet needs reconciliation with the minor modification authority of the Zoning Administrator in A § 304. To avoid the confusion that the two sections can be applied cumulatively, it is recommended that X § 101.18 be deleted and A § 304.5 be expanded to require a referral back to the Commission for concurrence on the modification.

Subtitle X - delete

~~101.18 Small additions that are determined necessary by the Zoning Administrator for compliance with life, safety or building codes may be permitted without an amendment to an approved campus plan provided the addition does not result in an increase in gross floor area of more than 1,500 square feet and the addition shall only be used for purposes of ingress, egress or handicap access~~

Subtitle A – expand (See discussion on page 3 of this report.)

~~304.5 Following approval of any minor modifications under A § 304.4, the Zoning Administrator shall report to the Commission, as applicable or as required by Subtitle X, any modification and his determination for its approval. For building permits that are authorized by an approved order of the Zoning Commission the Zoning Administrator shall report to the Commission any modification approved under A § 304.4. No modified building permit shall be issued for forty-five (45) days after a report is sent to the Commission. If prior to the expiration of this time period the Commission decides that the modification exceeded the scope of a minor modification the Zoning Administrator shall not approve the building permit, but shall instruct the applicant to seek a modification pursuant to the appropriate procedures of this title.~~

ZC Guidance: **Special Exception – Individual Project Special Exception (instead of 10 Year Campus Plan)**

This proposal has not been introduced in the draft text. For uses that occupy an individual building the process is the same; for uses that occupy multiple buildings or sites there would be increased difficulty in assessing the cumulative impact of special exceptions without a campus plan context.

ZC Guidance: **Removal of Second Stage Review for Projects in Compliance with Valid Campus Master Plan**

This proposal has not been introduced in the draft text. The Commission expressed concern about a ten year time frame being a long time frame with no additional review. During community outreach OP also heard concerns from several communities that it creates an enormous burden on a community or ANC to review multiple buildings simultaneously with a full campus plan. The further processing step is vital to a review of buildings within a campus plan. The current process can accommodate coordinated filings which achieve the same purpose as this recommendation and allow the Zoning Commission to determine the appropriateness of multiple filings and scheduling on a case-by-case basis.

**ZC Guidance: Exempt Institutional and Educational Uses Reviewed Through the Special Exception or Campus Plan Process from the § 2516 Process**

Proposed Text:

The 9/9/13 draft text is currently vague and is not consistent with the guidance. It could be confusing to both applicants and communities in trying to understand the process. In the District of Columbia it has been a long-standing practice to permit multiple buildings on a single lot within the boundaries of a school or university where the buildings are approved in accordance with an approved campus master plan or private school plan. The campus/school plan process has not required colleges, universities or private schools to apply for theoretical lots, and the Zoning Administrator has confirmed this practice through written interpretations. These interpretations should be clarified in the proposed regulations. Clarification will also be cross-referenced in Subtitle C § 407.10 and reflected in the report for that hearing.

Clarification/ERRATA: It is recommended that the following text be included in Subtitle A § 301.3:

301.3 *Except as provided in the building lot control regulations for Residence Districts in C Chapter 4 and § 5 of An Act to amend an Act of Congress approved March 2, 1893, ... a building permit shall not be issued for the proposed erection, construction, or conversion of any principal structure, or for any addition to any principal structure, unless the land for the proposed erection, construction, or conversion has been divided so that each structure will be on a separate lot of record; except a building permit may be issued for:*

- (f) **Buildings within the boundaries of a campus plan or school plan where the buildings are in accordance with an approved campus master plan or approved school plan.**

Additional ERRATA – Height Measuring Points:

Changes to how height is determined and measured have been incorporated into the existing Title 11 and have been brought forward into the 9/9/13 proposed text. However, due to the particular development process for a campus/public school plan and the historic interpretation and guidance to exempt campus plans from Section 2516, additional clarification is needed on how to measure height of buildings within an approved campus plan that do not front on a public street.

It is recommended that the following text be included in Subtitle X § 106

**106 MEASURING HEIGHT**

**106.1 The building height measuring point (BHMP) for a building within an approved campus or private school plan when not fronting on a public street shall be established at the existing grade at the mid-point of the front building façade of the building.**

**106.2 The Zoning Commission may approve, or amend, the building height if it is determined that the BHMP results in a building that is inappropriately tall compared to other buildings with the same zone district development standard restrictions.**

**ZC Guidance: Ancillary Campus Uses**

Allow ancillary non-residential uses for institutional uses as a part of an approved campus master plan special exception, but not as part of an individual special exception. Examples include campus-serving retail, service, and industrial use; Need for new definition of “ancillary”.

Proposed Text: Subtitle X §§ 101.3 – 101.4 establishes a maximum of 10% for any commercial use within a campus plan in a residential zone and requires that the applicant demonstrate a needed relationship between the uses and a general compliance with the Comprehensive Plan.

Additional language may be needed to help in the review of “necessary relationship between the use and the university functions” required by proposed Subtitle X § 101.3 (a). The intent of X § 101 is to recognize and accommodate the academic, food and retail needs of a student body within a campus while protecting the adjoining residential neighbors. More and more, students are being encouraged to live on campus and it is therefore logical to provide for their needs and enjoyment within the campus. The text also should clarify that the uses may be available to the broader public as is often the case in the more urban downtown campuses.

**Clarification:** Additional clarifying language could be added that reads:

101.3 *Any commercial use customarily incidental to a university use in an R, RF or A zone, or as an adjunct use to a university building, shall be subject to the following conditions:*

(a) *There shall be a demonstrated and necessary **or desirable** relationship between the use and the university functions **or student life**; ...*

**(e) *Such uses may be available for use by the broader community and the Zoning Commission may consider the location and context of the use and the campus as whole when considering such uses.***

#### **ZC Guidance: Look at University Use of Local Commercial Zones**

After several campus plans hearings, and in response to Councilmember Cheh’s letters requesting that university owned commercial lands require a campus plan, the Commission asked OP to look at this issue as part of the revisions to the zoning regulations.

OP has proposed that university use of commercial properties in the C-1 or C-2-A (M-3, M-4, M-18, M-25 through M-29, M-33 and N) zones be permitted only by special exception. A university or college can include uses that are similar to light industrial, production, distribution or repair uses which would not be permitted within these local commercial zones as independent uses. Such uses could include mail sorting, fleet vehicle repair, and central building maintenance and storage. Under the current regulations these uses would not be permitted as independent business uses but could be located in the C-1 and C-2A zones as a matter-of-right under the umbrella of a University use. Other uses may be more compatible such as office use.

Because campus plans are reviewed and approved by the Commission and the criteria for this particular special exception permits consideration of campus plan conditions, the proposal is for the Commission to be the approval authority for this special exception.

**Proposed Text:** Subtitle X § 102 addresses a special exception for university use of commercial property and establishes Commission authority to require the use be considered as part of a campus plan if warranted.

**Clarification/ERRATA:** A new provision is proposed to allow for a comprehensive review of the plan with any relief. It reduces the burden on a community and ANC to hear separate cases, take separate actions and attend separate hearing procedures; and clarifies that the Commission can hear all actions together.

**101.19 *As part of the campus plan process, the Commission may hear and decide requests for any relief that would otherwise be processed by special exception or variance. Such requests shall be advertised, heard, and decided together with the campus plan or further***

**processing application and no additional Board of Zoning Adjustment hearing shall be required for such requests.**

**Diplomatic Overlay**

The 9/9/13 draft text proposes a removal of the Diplomatic Overlay. Instead of an overlay, the new draft regulations propose the establishment of a process to permit the use in all residential zones subject to fifty percent (50%) of the square being in institutional use and subject to the Foreign Mission Board of Zoning Adjustment review.

The practice for applying the Diplomatic Overlay has been based on a 1/3- 2/3 methodology which stemmed from a 1984 study prepared by the National Capital Planning Commission and largely accepted by the Zoning Commission. Although never codified as a rule, the 1/3-2/3 methodology considered a square appropriate for chancery use if only 1/3 of the square was in institutional uses. This practice gave a disproportionate weight to non-residential uses in residential zones.

In 2004, the Sheridan-Kalorama Neighborhood Council (SKNC) filed a petition with the Zoning Commission to remove portions of the Diplomatic Overlay (ZC Case No. 04-21). The SKNC agreed to hold the case and work with OP in the larger context of updating the zoning regulations. After reviewing the impacts of the 1/3-2/3 rule and working extensively with the SKNC and the Office of Attorney General, it was determined that a 50% standard was more appropriate for maintaining residential character and provided guidance to the FMBZA on how to review a new chancery application. The proposed changes, if adopted, will address the issues of Case 04-21.

**Planned Unit Development Procedures**

Many of the proposed changes to the PUD regulations have been adopted by the Commission as part of ZC Case 12-11. Other proposed modifications include the establishment of limits on and standards for extension of approved PUDs, delineation of types of modifications, proposals for determining party status prior to the hearings, updates to Housing Linkage, clarification that a PUD without a related map amendment does not constitute a change to the zoning map and requires only one vote for a second stage application, and clarification that a PUD-related map amendment constitute flexibility.

**ZC Guidance: PUD Process**

Divide the existing PUD process into three separate processes:

**Type 1 “Design Review”** - No density increase – flexibility tied to design review; Available city-wide, with some areas potentially mandatory.

**Type 2 “Design Review with Bonus Density”** – Limited bonus density increase.

**Type 3 “Project Specific Rezoning”** – Major density increase.

This proposal has been modified as proposed in the 9/9/13 draft text. The Design Review process is identified for those zones that are currently subject to review – the Capital Gateway and Southeast Federal Center zones. What was referred to as Type 2 and Type 3 remain planned unit developments and those without a related map amendment are proposed to have only one vote by the Commission because they are not considered a change to the zoning map. Those PUDs with a related map amendment retain the two vote requirement and referral to the National Capital Planning Commission.

**ZC Guidance: Standard Bonus Density**

Base the density increase available within each zone on a standard percentage across zones. Maximum density increase should be:

- 20% above the greater of the current maximum matter-of-right (including IZ) for residential FAR; and
- 34% above the maximum current matter-of-right for non-residential FAR.

**Proposed Text:** Subtitle X § 303.3

The non-residential FAR change is proposed at a standard increase of 34% above the matter-of-right standards.

**FAR Bonus:**

The draft regulations propose a standardizing the increase in density achievable through a PUD with no map amendment at twenty percent (20%) instead of the variable densities in the current code. The table below shows the range of PUD densities within the current code. With the implementation of IZ, many zones have lower PUD FAR than matter-of-right zoning. The maximum increase of 42.9 % is for the C-2-B zone, and because of this and the Comprehensive Plan land use designations, it is anticipated that under the current FAR regime, the most PUDs will be with an associated C-2-B zone. A PUD with a related map amendment has an associated increased cost and reduces the predictability of development under zoning.

EXISTING FAR in PUDs					PROPOSED FAR
Zone	Total FAR BASE w/IZ	Total Existing FAR PUD MAX	Total FAR Delta	Total FAR Delta %	(20%) PUD MAX
R-5-A	1.08	1	-0.08	-7.4%	1.30
R-5-B	2.16	3	0.84	38.9%	2.6
R-5-C	3.6	4	0.4	11.1%	4.32
R-5-D	4.2	4.5	0.3	7.1%	5.04
R-5-E	5	6	1	20.0%	6
C-1	1.2	1	-0.2	-16.7%	1.44
C-2-A	3	3	0	0.0%	3.6
C-2-B	4.2	6	1.8	42.9%	5.04
C-2-C	7.2	6	-1.2	-16.7%	8.64
C-3-A	4.8	4.5	-0.3	-6.3%	5.76
C-3-B	6	5.5	-0.5	-8.3%	7.2
C-3-C	7.8	8	0.2	2.6%	9.36
C-4	10.2	11	0.8	7.8%	12
C-5	12	12	0	0.0%	12
CR	7.2	8	0.8	11.1%	8.64
SP-1	4	4.5	0.5	12.5%	4.8
SP-2	6	6.5	0.5	8.3%	7.2
<b>Overall Averages</b>			<b>0.9</b>	<b>18.3%</b>	

**Non-residential FAR bonus:**

Most zones which allow a mix of uses provide a limit on the amount of non-residential FAR that may be achieved. The existing regulations also typically limit how much additional non-residential FAR could be achieved through a PUD without a map amendment. The amount of additional non-residential density varies from 0 to 1 FAR. The 9/9/13 draft text proposes a standard non-residential FAR increase through the PUD at 34%. The zones that currently permit a lower non-residential FAR are zones identified for business and

employment centers at medium and high densities therefore permitting a non-residential FAR similar to the lower density commercial zones is not inappropriate.

EXISTING Non-Residential FAR in PUDs					PROPOSED	Zone Description
Zone	Non-Res FAR M-o-R	Non-Res FAR PUD MAX	Delta	Delta %	Non-Res FAR PUD MAX (34% M-o-R)	
C-1	1.0	1.0	0		1.34	Low Density Commercial
C-2-A	1.5	2.0	.5	.33	2.01	Community Bus Center-Low-Moderate Density
C-2-B	1.5	2.0	.5	.33	2.01	Community Bus Center-Medium Density
C-2-C	2.0	2.5	.5	.25	2.68	Community Bus Center-High Density
C-3-A	2.5	3.0	.5	.20	3.35	Major Bus and Employment Medium Density
C-3-B	4.0	4.5	.5	.125	5.36	Major Bus and Employment Medium Density
CR	3.0	4.0	1.0	.33	4.02	Major Bus and Employment Medium Density
SP-1	2.5	3.5	1.0	.4	3.35	Limited Office/Residential Medium Density
SP-2	3.5	4.5	1.0	.29	4.69	Limited Office/Residential Med-High Density
<b>Overall Averages</b>				.25		

**ZC Guidance: Minimum PUD Lot Size**

Retain a relatively large lot size minimum for PUDs in low and moderate density residential zones and relate minimum size for all other zones to the amount of flexibility being requested, with Zoning Commission able to waive these minimums.

Zone	Type 1	Types 2 and 3
<b>Low/Moderate Residential</b>	2 acres	N/A
<b>Other Zones, including R-5-B</b>	None	15,000 square feet

Proposed Text: Subtitle X § 301; Minimum areas also reflect and retain those required by current overlays.

**ZC Guidance: Criteria for Lot Size Waiver**

- 1) Permit waiver of minimum lot size for additional categories of projects including:
  - Redevelopment consistent with approved Small Area Plan;
  - Government projects
  - Compatible infill development
- 2) Remove existing limit of maximum waiver of 50% of minimum lot size.

Proposed Text: Subtitle X § 301.2

**ERRATA:** The advertised text does not reflect the Commission guidance to remove the 50% limitation on waivers; OP recommends that the draft text be modified to reflect the Commission's guidance; possible text:

- 301.2 The Commission may waive ~~up to fifty percent (50%) of~~ the minimum area requirement of this section for applications in zone groups 1, 2 and 5, or up to five percent (5%) for applications in zone groups 3 and 4, provided that the Commission shall find one of the following: ...
- c) The development ~~consists of at least eighty percent (80%) residential use~~ will result in compatible infill development.

**ZC Guidance: Public Benefits**

Codify a list of specific and measureable public benefits. Benefits would be clearly defined.

**Proposed Text:** The benefit clarification has been adopted through Zoning Commission Case 12-11 and reflected in the draft new regulations, Subtitle X § 305.

**ZC Guidance: Value of Benefits**

Create a point system to establish relationship between density and public benefits, with clarification that a point system or list of potential public benefits will be considered the minimum required; Support for language clarifying that:

- Meeting these standards are necessary but not sufficient for a PUD application and that additional public benefits may be required; and
- Zoning Commission retains flexibility to waive or substitute listed benefits on a case by case basis.

This proposal has not been introduced in the draft text. The Commission expressed concern about the reliability of such a system and the need to keep the flexibility for negotiating benefits by communities. OP agreed and has not proposed a point system.

**ZC Guidance: Community Input**

Formalize the pre-application process; establish public meeting between applicant and ANC prior to PUD application filing. The proposed community input process would include the following steps:

1. Pre-application meeting for PUDs;
2. Applicant notifies ANC and OP of potential project;
3. ANC schedules public meeting for the applicant to present the project;
4. Application may be filed 45 days after initial ANC notification; and
5. Applicant must provide documentation of community notification/participation and highlight changes, if any, resulting from community input.

**Proposed Text:** Subtitle X § 307.6 establishes the 45 day Notice of Intent to file;

**ERRATA:** Additional language is needed to clarify the process; possible text:

**307.9 The applicant is encouraged to attend a meeting of the ANC after filing the NOI and prior to submitting the application with the Office of Zoning. The application narrative should note any amendments resulting from community input and consultation with the ANC.**



**ZC Guidance: Propose process for Zoning Commission consideration of party status applications in advance of meeting.**

Proposed Text: Party Status in Subtitle X § 317.

**ZC Guidance: Extension and Expiration of PUDs**

Adopt time periods for PUD orders, criteria for extension requests, and limits on number of request.

**ZC Guidance: PUD Condition Enforcement**

Define audit process for enforcement of PUD conditions after approval as follows:

1. Zoning Administrator reviews provision of PUD conditions during permit process;
2. Temporary Certificate of Occupancy issued if all benefits have not been provided; and
3. Applicant must return to Zoning Commission to amend approved PUD if approved conditions cannot be met by expiration of Temporary Certificate of Occupancy.

Proposed Text: Subtitle X § 311

**ZC Guidance: Post-Hearing Filing Requirements**

Add filing requirements to improve clarity of Commission-approved benefits and conditions:

Proposed Text: Subtitle X § 308.

**PUD Height**

For the purposes of understanding the changes to PUD heights, the draft regulations include a detailed table that shows a comparison of heights achievable through current matter-of-right (with and without Inclusionary Zoning (IZ)) standards, through a PUD under current regulations, and proposed changes (Subtitle X § 303.4). The comparative data will be deleted should the Commission take action on the changes.

For the purpose of this discussion, the zones will be discussed in terms of the current code names. The table below shows a change to height proposed for only four zones. Two zones, the W-2 and W-3 districts, are proposed for changes so the PUD height is equal to the height achievable as a matter-of-right under IZ. The increase in height in these zones is also consistent with the guidance given to allow buildings in the W zones to be taller through the PUD process to increase views and access to the water:

**ZC Guidance:: Allow additional height, but not density, in W-1, W-2, and W-3 through a PUD process.**

The only zone proposed for an increase in height is the C-2-C district which is a high-density mixed use commercial zone. The current PUD regulations assign no bonus density or height for a PUD in the C-2-C district; as a result there is no history of a C-2-C PUD. With the implementation of IZ, the density increases as a matter of right by 20% which is associated with an increase in lot occupancy to 90%. The draft regulations propose to permit a PUD achievable height of 110 feet which is consistent with the CR zone. The CR and C-2-C zones have the same permitted FAR and both zones are anticipated to be mapped in proximity of the Central Employment Area (typically the down town):

*A CR District may be located on the periphery of the Central Employment Area (11 DCMR §600.5)*

*The C-2-C Districts shall be compact and located in or near the Central Employment Area (11 DCMR § 720.11)*

Both zones permit buildings which may be entirely residential, or a mixture of commercial and residential uses.

The fourth change is to the current R-4 (Rowhouse zone). In this zone, the proposal is to lower the PUD height to 50 feet to reflect a smoother transition in this low-moderate residential zone.

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>
<b>Current Zone</b>	<b>Proposed Zone Name</b>	<b>Current MoR Height (feet)</b>	<b>Current MoR Height w/IZ (feet)</b>	<b>Current PUD Height (feet)</b>	<b>Proposed PUD Height (feet)</b>
R-4	<del>R-16</del> <b>RF-1</b>	40	40	60	<b>50</b>
C-2-C	M-6	90	90	90	<b>110</b>
W-2	M-13	60	80	60	<b>80</b>
W-3	M-15	90	100	90	<b>100</b>

Other changes to the proposed PUD regulations include centralizing all references from other zones and overlays.

ERRATA: RF Zones

The advertised text for Subtitle X did not reflect the new Subtitle E for RF Rowhouse zones.

Proposed Text:

The R-4 zones listed in column B should accurately be RF zones as reflected below:

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>
<b>Current Zone</b>	<b>Proposed Zone Name</b>	<b>Current MoR Height (feet)</b>	<b>Current MoR Height w/IZ (feet)</b>	<b>Current PUD Height (feet)</b>	<b>Proposed PUD Height (feet)</b>
R-4	<del>R-16, R-17, R-18</del> <b>RF-1</b>	40		60	<b>50</b>
<b>R-4/DC</b> <b>R-4/CAP</b>	<b><u>RF-2</u></b> <b><u>RF-3</u></b>	The matter-of-right height and floor area ratio limits shall serve as the maximum permitted height and floor area ratio for a planned unit development.			

Additionally, as the new RF-4 or RF-5 zones may be mapped, the PUD standards would be established.

Subtitle X also proposes guidance on establishing new zones. The conditions establish that new zones need to reflect a well-defined geographic area that has similar development characteristics and land use. There is a stated connection with the Comprehensive Plan and identifies the type of information and evidence expected to be submitted.

**Comprehensive Plan Policies and Actions:**

ZONING ISSUES	COMPREHENSIVE PLAN CITATION	COMPREHENSIVE PLAN TEXT
<b>SUBTITLE X GENERAL PROCESSES</b>		
Using Zoning to Achieve Design Goals	Action UD-2.2.B	Explore zoning and other regulatory techniques to promote excellence in the design of new buildings and public spaces. Zoning should include incentives or requirements for facade features, window placement, courtyards, buffering, and other exterior architectural elements that improve the compatibility of structures, including roof structures, with their surroundings while promoting high architectural quality
Involvement of Advisory Neighborhood Commissions	Policy IM-1.5.1	Include the Advisory Neighborhood Commissions and area residents in the review of development to assist the District in responding to resident concerns. Consistent with the statutory requirements of the DC Code, feedback from the ANCs should be given “great weight” as land use recommendations and decisions are made.
PUD Regulations	Action IM-1.1.A	Evaluate the District’s Planned Unit Development (PUD) regulations and procedures, including a “best practices” assessment of PUD practices in other large cities.
Review of Zoning Requirements	Action UD-4.1.C	Review the processes and requirements for PUDs, site plans in the R-5-A zoning districts, and large tract reviews in order to strengthen design amenities and promote higher design quality.
	Action T-1.1.B	Require transportation demand management measures and transportation support facilities such as crosswalks, bus shelters, and bicycle facilities in large development projects and major trip generators, including projects that go through the PUD process.
Design of public space in PUDs	Policy PROS-4.3.2: Plazas in Commercial Districts	Use the PUD process to promote such spaces for public benefit and to encourage tree planting, public art, sculpture, seating areas, and other amenities within such spaces.
	Policy 1-7	Incorporate a park and open space classification system into residential development requirements through the planned unit development process.
Historic Structures	Policy HP-2.2.2	Give full consideration to preservation concerns in applications for planned unit developments.
Zoning Review of Institutional Uses	Action LU-3.2.A	Study residential zoning requirements for institutional uses other than colleges and universities. Determine whether additional BZA or ZC review should be required in the event of a change in use.
Institutional Housing	Action LU-3.2.B	Require a special exception for dormitories, rooming houses, boarding houses, fraternities, sororities, and similar uses.

<b>ZONING ISSUES</b>	<b>COMPREHENSIVE PLAN CITATION</b>	<b>COMPREHENSIVE PLAN TEXT</b>
Institutional Uses	Policy LU-3.2.3	Ensure that large non-profits, service organizations, private schools, seminaries, colleges and universities, and other institutional uses that occupy large sites within residential areas are planned, designed, and managed in a way that minimizes objectionable impacts on adjacent communities. The zoning regulations should ensure that the expansion of these uses is not permitted if the quality of life in adjacent residential areas is significantly adversely affected.
Modifications to diplomatic overlay	Action LU-3.3.A	Develop a new methodology to determine appropriate additional chancery development areas; and revise the mapped diplomatic areas, reflecting additional areas where foreign missions may relocate. Avoid concentrations of chanceries in low density neighborhoods, as consistent with the Foreign Missions Act.

**Attachment A: Zone Name Conversion Table**

Current Zone Name	Proposed Zone Name
<b>Subtitle D - Residential House</b>	
R-1-A and R-1-A/D	R-1
R-1-B and R-1-B/D	R-2
R-2 and R-2/D	R-3
R-3 and R-3/D	R-4
R-1-A/CBUT	R-5
R-1-A/TSP	R-6
R-1-B/TSP	R-7
R-1-A/FH-TSP	R-8
R-1-B/FH-TSP	R-9
R-2/FH-TSP	R-10
R-1-A/NO/TSP and R-1-A/NO/TSP/D	R-11
R-1-B/NO and R-1-B/NO/D	R-12
R-3/NO	R-13
R-1-A/WH	R-14
R-1-B/WH	R-15
R-3/FB	R-16
R-1-B/SSH1	R-17
R-1-B/SSH2	R-18
Modified R-1-B (Gtwn)	R-19
Modified R-3 (Gtwn)	R-20
<b>Subtitle E – Residential Flat</b>	
R-4 and R-4/D	RF-1
R-4/DC	RF-2
R-4/CAP	RF-3
NEW ZONE	RF-4
NEW ZONE	RF-5
<b>Subtitle F - Apartments</b>	
R-5-A	A -1
R-5-B	A-2
R-5-C	A-3
R-5-D	A-4
R-5-E	A-5
R-5-A/NO	A-6
R-5-B/CAP	A-7
R-5-B/RC	A-8
R-5-B/DC	A-9
R-5-D/DC	A-10
R-5-E/DC	A-11
<b>Subtitle G - Mixed Use</b>	
SP-1	M-1

<b>Current Zone Name</b>	<b>Proposed Zone Name</b>
SP-2	M-2
C-1	M-3
C-2-A	M-4
C-2-B	M-5
C-2-C	M-6
C-3-A	M-7
C-3-B	M-8
C-3-C	M-9
CR	M-10
W-0	M-11
W-1	M-12
W-2	M-13
W-3	M-14
SP-1/DC	M-16
SP-2/DC	M-17
C-2-A/DC	M-18
C-2-B/DC	M-19
C-2-C/DC	M-20
C-3-B/DC	M-21
C-3-C/DC	M-22
CR/DC	M-23
SP-2/CAP	M-24
C-2-A/CAP	M-25
C-2-A/CHC	M-26
C-2-A/CAP/CHC	M-27
C-2-A/NO	M-28
C-2-A/ARTS	M-29
C-2-B/ARTS	M-30
C-3-A/ARTS	M-31
CR/ARTS	M-32
C-2-A/RC	M-33
C-2-B/RC	M-34
C-3-A/FT	M-35
CR/FT	M-36
<b>Subtitle H – Neighborhood Commercial</b>	
C-1/MW	N-1
C-2-A/TK	N-2
C-2-A/CP	N-3
C-2-A/WP	N-4
C-2-B/WP	N-5
C-3-A/ES	N-6

Current Zone Name	Proposed Zone Name
C-2-A/GA	N-7
C-3-A/GA	N-8
C-2-A/HS-H	N-9
C-2-B/HS-H	N-10
C-2-C/HS-H	N-11
C-3-A/HS-H	N-12
C-3-B/HS-H	N-13
C-2-A/HS-A	N-14
C-3-A/HS-A	N-15
C-2-A/HS-R	N-16
C-2-B/HS-R	N-17
<b>Subtitle I - Downtown</b>	
R-5-E in expanded downtown, DD/R-5-E; DD/Chinatown/R-5-E	D-1-A-2
SP-2 in expanded downtown	D-2-B-1
HR/C-3-C/TDR; C-3-C/Downtown East TDR	D-3-B-1
C-3-C/non-TDR in expanded downtown HR/C-3-C/non-TDR	D-4-B-1
DD/C-2-C/HPA (housing priority area); DD/C-2-C/MVT/HPA	D-4-B-2
CG/C-3-C/TDR; C-3-C/TDR other than Downtown East TDR; DD/C-3-C/non-HPA; DD/C-3-C	D-5-B-1
DD/C-3-C/HPA; DD/C-3-C/MVT/HPA	D-5-B-2
C-4/non HPA in expanded downtown; DD/C-4/non-HPA	D-6-B-1
DD/C-4/HPA	D-6-B-2
C-5	D-7-B-1
C-3-C/ non TDR, generally bounded by 4th and 12th Streets, SW & Independence Ave. and Maryland Ave. SW	D-8-B-1
<b>Subtitle J – Production Distribution, Repair (PDR) (Industrial)</b>	
CM-1, CM-1/LO	P-1
CM-2	P-2
CM-3	P-3
M	P-4
CM-1/CAP	P-5
CM-1/FT	P-6
M/FT	P-7
<b>Subtitle K - Special Plan Zones</b>	
SEFC	SEFC-1 through SEFC-4
USN	USN
HE	HE-1 through HE-4
CG/R-5-E	CG-1
CG/C-2-C	CG-2
CG/C-3-C	CG-3
CG/CR	CG-4

Current Zone Name	Proposed Zone Name
CG/W-2	CG-5
CG/W-1	CG-6
CG/W-3	CG-7
StE	STE-1 through STE-19

Legend - Existing	Legend – Proposed
R = Residential	R = Residential House
SP = Special Purpose	RF = Residential Flat
C = Commercial (mixed use)	A = Residential Apartment
CR = Commercial Restricted	M = Mixed Use
W = Waterfront (mixed use)	N = Neighborhood Mixed Use
CM = Commercial Manufacturing	D = Downtown
M = Manufacturing (heavy)	P = Production, Distribution, Repair (industrial)