GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 06-11A1/06-12A1
Z.C. Case No. 06-11A/06-12A
The George Washington University Foggy Bottom Campus
(Second-Stage Planned Unit Development ("PUD"), Further Processing of an Approved Campus Plan, and Modification of a First-Stage PUD @ Square 103)
April 25, 2011

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on February 3, 2011, to consider an application of The George Washington University (the "University") for the review and approval of the second stage of an approved PUD, further processing of an approved campus plan, and modification of the first-stage PUD. The Commission considered the application pursuant to § 210, Chapter 24, and Chapter 30 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 11 DCMR § 3022. The Commission approves the application, subject to the conditions below.

FINDINGS OF FACT

Application, Parties, and Hearing

1. The property that is the subject of the application is located in Square 103, Lots 13, 14, 18, 809, 812, 813, 814, 819, and 820 (the "Property").[1]

2. In August 2010, the University submitted an application for second-stage PUD approval of the first phase of development of the Property. The University sought approval to develop a below-grade structure containing program space and four stories of underground parking as well as interim surface improvements related to the below-grade facilities. The University concurrently requested further processing approval of its approved campus plan to construct the new facility. The University also requested approval of a modification of the first-stage PUD in order to incorporate one of the lots that is the subject of the application into the first-stage PUD. (Exhibit 6.)

3. The application was set down for a public hearing at the Commission's October 18, 2010 public meeting. Notice of the public hearing was published in the *D.C. Register* on November 26, 2011 (57 DCR 11090) and was mailed to Advisory Neighborhood

[1] Concurrently with the Zoning Commission review process, the Property was subdivided into a single record lot, and is now known as Lot 44.

Commission ("ANC") 2A and to owners of property within 200 feet of the second-stage PUD site.

4. A public hearing was conducted on February 3, 2011. The Commission accepted Shalom Baranes and Patrick Burkhart as experts in the field of architecture, Don Hoover as an expert in the field of landscape architecture, and Robert Schiesel as an expert in the field of traffic engineering. The University provided testimony from these experts as well as from Alicia O'Neil Knight, the University's Associate Vice President for Operations.

5. In addition to the University, ANC 2A was automatically a party in this proceeding. The Commission also granted a request for party status in opposition to the application from the West End Citizens Association ("WECA").

6. At the hearing, the Commission heard testimony and received evidence from the Office of Planning ("OP"), the District Department of Transportation ("DDOT"), and the D.C. Fire and EMS Department ("FEMS") in support of the application, as well as testimony and evidence from ANC 2A and WECA expressing concerns with or objections to the application.

7. The Commission also heard testimony from numerous persons in support of the application. Other than WECA, no other person or party testified in opposition to the application.

8. At the close of the hearing, the Commission directed the University to study the impacts of either an alternative location of the proposed garage entrance or one-way alley circulation pattern. The Commission also directed the University to evaluate additional measures at the alley intersections to address pedestrian safety.

9. The University filed its post-hearing submission addressing the Commission's comments on February 22, 2011. (Exhibit 39.) DDOT filed a supplemental report endorsing the University's post-hearing findings on March 2, 2011. (Exhibit 41.) WECA also filed a response to the post-hearing submission on March 23, 2011, reiterating its concerns. (Exhibit 46.) OP filed a supplemental report on March 8, 2011. (Exhibit 43.)

10. At its public meeting on March 14, 2011, the Commission took proposed action to approve the application and plans that were submitted into the record.

11. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the Home Rule Act. NCPC, by action dated April 1, 2011, found that the proposed PUD would not be not inconsistent with the Comprehensive Plan for the National Capital, nor would it adversely affect any other identified federal interests.

12. The Commission took final action to approve the application on April 25, 2011.

Campus Plan and First-Stage PUD Approval

13. In Z.C. Order No. 06-11/06-12, the Commission concurrently approved a new campus plan and first-stage PUD for the Foggy Bottom campus (the "Campus Plan/PUD"). The Campus Plan incorporated a plan for developing the campus as a whole by concentrating height and density within the central campus core and redistributing parking supply throughout the campus in multiple underground parking garages. The first-stage PUD is coterminous with the approved boundaries for the Foggy Bottom campus, and includes all properties that were owned by the University at the time of approval of the Campus Plan/PUD. The approved first-stage PUD identified 16 development sites for future development as well as the uses, height, gross floor area, and lot occupancy for each development site.

14. For the Property that is the subject of this application, the Campus Plan/PUD approved a building devoted to academic/administrative/medical use with a height of 80 feet, lot occupancy of 90%, and gross floor area of 185,983 square feet. The Campus Plan/PUD also called for approximately 307 net new parking spaces on the Property in an underground facility.

15. The Campus Plan/PUD identified G Street as having a strong, pedestrian-oriented campus presence, and called for the retention of the existing public alley that runs east-west through the square.

Modification of the First-Stage PUD

16. The University requested approval of a modification of the first-stage PUD in order to incorporate Lot 18, which was not owned by the University at the time of the approval of the first-stage PUD and therefore not included in that approval. The incorporation of this lot into the PUD was explicitly contemplated in the first-stage PUD documentation.

17. The University stated that it was under contract to purchase Lot 18 from a fraternity. The University presented evidence that this fraternity, as well as another fraternity that had previously leased space on Lot 18, were now accommodated at other on-campus locations.

Second-Stage PUD Approval/Further Processing

Overview of the Property

18. The Property is located along G Street, N.W. between 20th Street, N.W. and 21st Street, N.W. A 16-foot-wide public alley runs along the rear of the property. Townhouses

owned by the University are located to the east and west of the Property. These townhouses will be retained as a part of the University's historic preservation plan for the campus. Across the public alley to the south are properties owned by the University and devoted to miscellaneous University uses, including residence halls approaching 90 feet in height. Across G Street to the north are properties owned by the University that include designated historic landmarks.

19. The Property is located in the R-5-D Zone District and is designated as Institutional on the Future Land Use Map of the Comprehensive Plan.

<u>The Project</u>

20. The University sought approval to develop a below-grade structure containing one level of academic and administrative program space and four stories of underground parking containing approximately 392 parking spaces, as well as interim surface improvements (the "Project").

21. The University explained that the Project was the first phase of development of the second stage PUD for the Property, and that the future building would follow at a later date. As an interim condition, the University indicated that the surface of the Property will contain entrances to the Project, additional surface parking for 58 vehicles, space for bicycle and service vehicle parking, and landscaping.

22. The main pedestrian access to the Project will be through an entry pavilion positioned on the north side of the Property, across the street from existing academic buildings. The pavilion was designed with a simple, rectilinear form that features glass curtainwalls facing east and west to bring light into the pavilion and to the program space below. The improvements will also feature a broad trellis structure that will create a modern style portico as a sheltered entrance to the pavilion.

23. To the west of the pavilion will be a new green space for passive recreation. A covered, secured area for bicycle parking will be located southwest of the entry pavilion; this bicycle storage area will be screened from the street via an articulated wood screen wall. An area for university service vehicles will be located south of the bicycle storage, along the alley.

24. East of the pavilion entrance will be an interim surface parking lot, which will be screened from the street with landscaping. In a prehearing submission, the University agreed to discontinue use of the surface parking lot upon the completion of additional underground parking at another development site. (Exhibit 14.)

25. The entrance to the garage will be located at the southeastern corner of the property, away from the street and off the public alley. This location will permit the construction

of an interim green space at the sidewalk edge adjacent to the G Street historic rowhouses, and will also allow for the potential future establishment of ground-floor building uses, rather than a parking garage entrance, along the G Street sidewalk when the second phase is constructed.

26. In connection with the Project, the University will improve the public streetscape adjacent to the Property's frontage to include wider sidewalks, widened tree pits, and a landscaped zone between the sidewalk and the property line that will include a mix of small trees, shrubs, and groundcovers. The University indicated that the sidewalk will be paved with brick pavers, consistent with the campuswide streetscape plan being developed as a part of the Campus Plan/PUD.

27. The proposed interim surface improvements will minimize environmental impacts, particularly compared to existing conditions. The surface improvements will improve the permeability of the surface with landscaped areas, permeable paving, and a green roof over the pavilion. Two cisterns will capture runoff and reuse it for irrigation; the larger cistern has been sized to anticipate the demand needs of the future building and to permit potential greywater recycling within the second phase. The University testified that it is targeting a Silver rating under the U.S. Green Building Council's LEED 2009 for New Construction rating system.

28. The University indicated that the Project will include approximately 60 bicycle parking spaces in a secured and covered facility on the surface of the Property as well as six dedicated parking spaces in the garage for electric cars.

29. The total gross floor area included in the Project will be approximately 7,430 square feet, for a total floor area ratio ("FAR") of approximately 0.19 and a lot occupancy of approximately 19%. The entry pavilion and other structures will have a maximum height of approximately 28 feet. The Project will provide a total of approximately 392 permanent new spaces in the underground garage as well as approximately 58 interim surface parking spaces. The total number of net new permanent parking spaces will be 299 parking spaces.

30. The University requested flexibility from the rear yard requirement to accommodate the proposed location of the ramp to the garage, which will be located less than 15 feet from the rear lot line in order to provide enough distance for the ramp to make its way down two stories to the first level of underground parking and provide for the efficient location of egress stairways. (Exhibit 6, pp. 13-14.)

<u>Public Benefits</u>

31. The project amenities and public benefits of the PUD were proffered and accepted in conjunction with the Campus Plan/PUD process. The University indicated in its written

submissions that it had started to implement many of these public benefits and project amenities. (Exhibit 6, pp. 6-8.)

32. As detailed in the University's testimony and written submissions, the proposed Project will implement the following project amenities and public benefits that were approved as part of the Campus Plan/PUD:

    a. Exemplary urban design, architecture, and landscaping, including high-quality materials, pedestrian-oriented landscape improvements, clear separation of pedestrian and vehicular entrances and circulation patterns, and sustainable features;

    b. Site planning and efficient land utilization, through the transformation of an existing collection of low-scale buildings and impervious surfaces into the first phase of a redevelopment that will enable both the distribution of parking to the Property and development of additional academic and administrative space within the boundaries of the campus plan;

    c. Effective and safe vehicular and pedestrian access and transportation management measures. As described in greater detail in Findings of Fact 33 - 42 below, the University's proposed two-way alley access circulation plan constitutes the most effective, efficient, and safe choice for the Property, and the University's commitment to widen the alley to 20 feet and install additional pavement markings, paving, and signs at the alley intersections will ensure vehicular and pedestrian safety. The PUD also includes features that further the campuswide transportation demand management program, including 60 bicycle parking spaces and six dedicated spaces for electric cars; and

    d. Environmental benefits, including landscaping and a green roof that will cover 24% of the site, stormwater management features that will capture all runoff on-site and permit the reuse of that runoff, and a commitment to achieve a minimum of the equivalent of a Silver rating under the LEED-NC 2009 rating system (which exceeds the minimum commitment of 16 points under Condition P-13 of the Campus Plan/PUD).

<u>Site Circulation and Transportation Impact Analysis</u>

33. The road network surrounding Square 103 consists of one-way streets running in a counterclockwise direction; 20th Street is classified as a minor arterial while the other three streets are classified as collectors. The four street intersections are signalized.

34. Consistent with established DDOT policy, the University located vehicular access to the parking garage off the existing public alley at the rear of the Property. To facilitate two-way use of the alley, the University agreed to widen the alley to 20 feet using the

University's property. The two-way alley access will permit vehicles to directly access the garage from both 20th and 21st Streets, which are the primary commuter routes into and out of this portion of the campus.

35. In its post-hearing submission, the University indicated that it had evaluated site conditions at the alley intersections in order to confirm whether additional measures were required to address pedestrian traffic. The University provided photographs and site plan dimensions that demonstrated both intersections provided exiting drivers with adequate sight distance to see passing drivers and pedestrians. The University agreed to improve the alley with special paving materials, markings, and signage to serve as a visible, audible, and tactile warning to exiting drivers that pedestrians are ahead and have the right of way. (Exhibit 39.)

36. In its initial report, DDOT endorsed the use of the existing alley system for vehicular access, and confirmed that the widening to 20 feet would adequately accommodate the proposed two-way traffic. (Exhibit 25.) In its supplemental report, DDOT reiterated its strong support for the use of the alley as a two-way alley in order to force drivers to navigate slowly in the alley. DDOT also expressed support for the special paving materials, markings, and signage proposed by the University at the alley intersections. (Exhibit 41.)

37. In its post-hearing submission, in response to the Commission's request, the University's traffic expert provided a supplemental report that analyzed the transportation impacts associated with both an alternative location for the parking garage entrance on G Street, and an alternative one-way eastbound alley circulation pattern. The analysis concluded that the two-way alley access design continued to be the preferred option because (a) the alternatives would require increased amounts of vehicular circulation on the surrounding one-way roadway network and (b) the alternatives would result in increased potential for pedestrian-vehicular impacts, particularly at higher-speed signalized intersections. Accordingly, the expert concluded that the two-way alley access configuration was the most efficient and safe vehicular circulation plan for the Project. (Exhibit 39.)

38. In its supplemental report, DDOT objected to the G Street curb cut alternative, noting that such a location would add another conflict point for vehicles and pedestrians, require extensive vehicular circulation because of the one-way nature of G Street, increase the number of potential conflicts at surrounding intersections, and unbalance the sharing of transportation modes along G Street. DDOT also expressed opposition to any one-way alley operation scheme, which would likely lead to increased travel speed in the alley. (Exhibit 41.)

39. In its post-hearing submission, the University also analyzed the design impacts associated with the G Street curb cut option: (Exhibit 39.)

a. The University stated that a curb cut located midblock would not permit enough distance for the ramp to slope down to the first level of parking without requiring extensive and inefficient ramping with multiple turns. Furthermore, the midblock location would break up the ground-floor and lower-level floor plates, effectively bifurcating the building in two at these levels and adversely impacting the future design of the phase 2 building. The University asserted that the curb cut should be located at the eastern end of the Property, noting that location of a curb cut at the western end of the property would be too close to the nearby intersection under DDOT guidelines; and

b. The University also provided renderings and images demonstrating that the location of the garage entrance on G Street would impose adverse visual impacts, particularly in relation to the historic rowhouses immediately to the east of the relocated entrance.

40. In its supplemental report, OP supported the findings of the University and stated that the location of the vehicular entrance on G Street would have adverse urban design impacts as well as adversely affect the historic properties to the east.

41. The Project will not cause unacceptable impacts on vehicular or pedestrian traffic, as demonstrated by the testimony and reports provided by the University's traffic expert and the DDOT reports and testimony described herein:

a. The Commission finds that the two-way alley access proposed by the University will not impose adverse or objectionable impacts on the surrounding transportation network. The Commission credits the findings of the University's traffic expert, who concluded that all four street intersections will continue to operate at acceptable levels of service after the completion of the Project. While the traffic consultant's report indicated that the intersection of the alley and 21st Street would operate at a failing level of service during the PM commuter peak hour, this condition is largely confined to those leaving the garage and is not unacceptable;

b. The Commission also finds that the two-way alley access proposed by the University is the most efficient and safe option for both vehicles and pedestrians. In so doing, the Commission credits the findings of the University's traffic expert and testimony provided by DDOT that the other alternatives would generate significantly greater potential for pedestrian/vehicular conflicts by adding an additional point of conflict, requiring less efficient circulation around the one-way street grid, and placing the conflicts at higher-speed intersections rather than at a two-way alley entrance;

c. The Commission also finds that the alley intersections, with the additional measures proposed by the University, will ensure that the Project will not impose adverse or objectionable impacts on pedestrians. The Commission also credits the testimony of

DDOT that these measures are acceptable and recognizes that DDOT will determine the final measures to be installed through the public space approval process;

d. The Commission credits the testimony of DDOT that the proposed location of the parking garage entrance off the alley is consistent with District policy and that the proposed width of 20 feet is acceptable. The Commission also finds, based on the detailed analysis prepared by the University's traffic expert and DDOT's supplemental report, that two-way alley access is preferable to one-way alley access;

e. The Commission does not agree with WECA's assertion that a one-way westbound alley circulation plan should have been analyzed, because such a circulation plan would direct all the traffic to the alley intersection at 21st Street and exacerbate the ability for vehicles to exit onto the street network. In its supplemental report, DDOT also indicated that it did not support a one-way westbound alley circulation plan; and

f. The Commission does not agree with WECA that the vehicular entrance should be relocated from the alley to G Street, based on: (a) the detailed analysis prepared by the University's traffic expert demonstrating the adverse impacts of such relocation on both vehicular and pedestrian traffic in the surrounding road network; and (b) the adverse urban design and architectural impacts of such relocation on both the design of second phase of the Project and adjacent historic structures. The Commission also credits the testimony of DDOT in its supplemental report that the G Street curb cut would have adverse impacts on vehicular and pedestrian traffic.

42. The Commission also finds that the relocation of the vehicular entrance to G Street would impose adverse impacts on both the urban design of G Street and the adjacent historic properties.

<u>Compliance with Requirements of Z.C. Order No. 06-11/06-12</u>

43. Pursuant to Condition P-14 of Z.C. Order No. 06-11/06-12, the University demonstrated that the proposed second-stage PUD is consistent with the location, use, zoning, gross floor area, lot occupancy, and height set forth in the first-stage PUD. (Exhibit 6, p. 13.)

44. Pursuant to Condition P-16 of the Order, the University provided the compliance, impact analysis, and progress reports required for each second-stage PUD in its initial PUD application. (Exhibit 6, pp. 19-22 and Tab I through Tab O).

45. Pursuant to Condition P-17 of the Order, the University provided its most recently filed Foggy Bottom Campus Plan Compliance Report indicating substantial compliance with Z.C. Order No. 06-11/06-12. (Exhibit 6, Tab J.)

46. The Commission finds that the University has satisfied the above conditions and requirements of Z.C. Order No. 06-11/06-12.

Compliance with § 210 Standards

47. In evaluating a request for a special exception to permit a college or university use in a residential zone district, the Commission must review whether the application meets the standards for approval under § 210 of the Zoning Regulations, including whether the "proposed use will be located so that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable impacts." During its consideration of the campus plan in Z.C. Case No. 06-11/06-12, the Commission determined that the use of the Foggy Bottom campus as a whole, including the number of students, faculty and staff proposed and the related traffic and parking impacts associated with that use, would not become objectionable to neighboring property. Here, the Commission finds that the University has satisfied its burden of proof under the Zoning Regulations for further processing of the approved campus plan to construct the Project.

48. For the reasons detailed in this Order, the Commission credits the testimony of the University's traffic consultant and finds that the traffic, parking, and other transportation impacts of the Project are not likely to become objectionable to neighboring property:

    a. During the campus plan proceedings in Z.C. Case No. 06-11/06-12, the Commission concluded that the distribution of parking to underground garages—including one garage located on the Property—would not generate objectionable transportation impacts. The Commission also concluded that the future levels of service at intersections throughout the campus and in the immediate vicinity would remain at primarily acceptable levels of service with the implementation of mitigation measures proposed by the University; and

    b. Here, the Commission credits the findings of the University's traffic consultant that the proposed parking garage will not have an adverse impact on traffic operations at surrounding street intersections. The Commission also credits the findings of the traffic consultant that the proposed two-way alley access site plan, with the proposed pavings, markings, and signage proffered by the University, will ensure that the operation of the proposed parking garage will not become objectionable.

49. The Commission agrees with DDOT's conclusions regarding vehicular and pedestrian impacts and related issues with the proposed development. The Commission credits DDOT's evaluation of the University's proposed two-way alley access and consideration of the issues raised by WECA regarding alternative site access and circulation plans. The Commission also credits DDOT's acceptance of the pedestrian traffic management measures proffered by the University subject to final approval by DDOT.

50. The Commission credits the evidence submitted by the University that total campus FAR would remain well within the density limit approved for the residentially-zoned portions of the campus even after the construction of the Project.

51. The Commission credits the evidence provided by the University and OP that the Project would not be inconsistent with the Comprehensive Plan, and will further the goals and policies of the Comprehensive Plan.

Compliance with PUD Standards

52. In evaluating a PUD application, the Commission must "judge, balance, and reconcile the relative value of project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects." During its consideration of the first-stage PUD in Z.C. Case No. 06-11/06-12, the Commission determined that the development incentives and related rezoning for the entire campus were appropriate and fully justified by the superior benefits and amenities offered by the Campus Plan/PUD and this decision was affirmed by the District of Columbia Court of Appeals. Here, the Commission finds that the University has satisfied its burden of proof under the Zoning Regulations for this second-stage PUD, including the requested flexibility from the rear yard requirements and satisfaction of the PUD standards.

53. The Commission credits the testimony of the University and its architectural experts and finds that the superior design, site planning, streetscape, and sustainable features of the Project all constitute acceptable project amenities and public benefits consistent with the Commission's first-stage approval.

54. The Commission finds that the character, scale, mix of uses, and design of the Project are appropriate, and finds that the site plan is consistent with the intent and purposes of the PUD process to encourage high-quality developments that provide public benefits. In addition, the Commission finds that the site plan and features of the Project, including the amount of net new parking proposed, retention and widening of the existing public alley, and promotion of G Street as a pedestrian-oriented street, are consistent with the first-stage PUD.

55. For the reasons detailed in this Order, the Commission credits the testimony of the University's traffic consultant and finds that the traffic, parking, and other transportation impacts of the Project on the surrounding area are capable of being mitigated through the measures proposed by the University and are acceptable given the quality of the public benefits of the PUD. The Commission credits the findings of the University's traffic consultant that the proposed two-way alley access plan will not impose adverse impacts. The Commission also finds the proposed paving, markings, and signage proffered by the University are acceptable and will mitigate potential pedestrian-vehicular conflicts. The Commission was not persuaded by WECA's testimony regarding the transportation

impacts of the Project, and finds that other alternatives for vehicular access and circulation would impose greater potential adverse impacts on vehicular and pedestrian efficiency and safety.

56. As detailed in this Order, the Commission agrees with DDOT's conclusions regarding vehicular and pedestrian impacts and related issues with the proposed development.

57. The Commission credits the testimony of the University and OP regarding the compliance of the Project with the Comprehensive Plan. The development is fully consistent with and furthers the goals and policies in the map, and in the citywide and area elements of the Plan, including:

    a. Designation as an Institutional use on the Future Land Use Map;

    b. Land Use Element policies recognizing the important contribution of universities to the District economy and their efforts to address transportation issues and serve as corporate role models through high-quality architecture and sustainable building methods;

    c. Other policies in the Economic Development, Education, Transportation, Environmental Protection, and Urban Design Elements related to the Land Use policies and goals stated above; and

    d. Policies in the Near Northwest Area Element regarding improved communication, increased density on-campus, and mitigation measures and amenities that improve the character of the area as a whole.

<u>Agency Reports</u>

58. By report dated January 24, 2011 and by testimony at the public hearing, OP recommended approval of the application, including the second-stage PUD, first-stage PUD modification, and further processing of the campus plan. OP reviewed the application under the PUD and campus plan standards of the Zoning Regulations as well as the specific conditions of the Campus Plan/PUD Order, and concluded that the University had satisfied its burden of proof.

59. In a supplemental report dated March 8, 2011, OP concluded that the University's proposed two-way alley access plan was acceptable, and that other alternative designs evaluated at the request of the Commission would impose adverse urban design impacts.

60. By reports dated January 27, 2011 and March 2, 2011, DDOT recommended approval of the University's application based on its review of the vehicular, pedestrian, and other transportation impacts of the Project as designed as well as other alternative site access

designs. DDOT's specific conclusions and recommendations are discussed elsewhere in this order.

ANC 2A Report

61. At a regularly scheduled meeting on January 19, 2011, with a quorum present, ANC 2A voted 4-0-2 to approve a resolution taking no position on the application but listing issues for the Commission's consideration. The ANC resolution requested that the University: prepare a construction management plan; undertake good faith efforts to monitor the impact on pedestrian safety at the mid-block alley intersections; demonstrate how it will manage the short-term parking impacts associated with the proposed buildout of the plan; mitigate the impact of queuing vehicles on neighborhood air quality; clarify the location of the fraternities formerly located on the Property; and address how the University plans to manage to its enrollment caps.

62. The University submitted a copy of its written responses to and clarifications of these issues at the public hearing. (Exhibit 30.) They are summarized as follows:

    a. The University agreed to prepare and share a construction management plan;

    b. The University proffered additional pedestrian-oriented measures in its post-hearing submission deemed acceptable by DDOT;

    c. The University agreed to address the parking impacts associated with the buildout of the campus plan as a part of Z.C. Case No. 06-11B/06-12B, which will result in the removal of the University Parking Garage;

    d. The University indicated that air quality and other environmental impacts would be addressed through the environmental review process associated with the consideration of the building permit for the Project;

    e. The University stated that the fraternities formerly on the Property had been accommodated on other property within the campus boundaries; and

    f. The University stated that it continues to remain in full compliance with the caps on student and faculty/staff population and, further, that the Project was not likely to lead to an increase in the number of students, faculty, or staff.

63. The Commission gives "great weight" to the issues and concerns raised by ANC 2A, which took no position on the application. The Commission finds that the concerns presented by the ANC were largely addressed by the University both in its direct response to the ANC and in its post-hearing submission detailing additional pedestrian

traffic management measures and notes that some of the issues raised by the ANC are beyond the jurisdiction of the Commission.

Testimony in Support

64. At the hearing, the Commission received evidence and heard testimony from students and neighbors in support of the Application.

Testimony in Opposition

65. WECA presented testimony and evidence from Barbara Kahlow and Sara Maddux as well as an individual identified as a local employee. WECA generally objected to the transportation impacts of the proposed Project related to the proposed use of the public alley for vehicular access and alleged that DDOT had not conducted a satisfactory evaluation of the Project. WECA also testified that it had participated in an on-site visit with a representative of DDOT.

66. For the reasons discussed in detail above, the Commission does not agree with WECA's assertions regarding the impacts of the Project, and finds that both the University and DDOT provided thorough evaluations of the transportation impacts related to the proposed two-way alley access and alternatives in their post-hearing submissions.

67. With regard to WECA's testimony regarding statements by a DDOT representative to WECA at a site visit and the testimony of its witness regarding fire and emergency access, the Commission credits the reports of District agencies as the official position and recommendation of the agency and notes that both DDOT and FEMS provided reports in support of the application. The Commission also notes DDOT's testimony in its supplemental report that the DDOT staff member met with WECA for a different project unassociated with the Project and was not conducting a formal assessment of the Project for DDOT.

68. The Commission finds that the other issues raised by WECA regarding existing loading activity at adjacent properties, utility relocation in the alley, emergency access, and liability were either unsupported by evidence, addressed by the University and District agencies, or go beyond the scope of the Zoning Regulations.

69. No other persons or organizations provided testimony in opposition to the application.

CONCLUSIONS OF LAW

1. The Applicant requested special exception approval, pursuant to 11 DCMR §§ 210, 3305, and 3104, of further processing of its approved campus plan, and approval, pursuant to 11

DCMR Chapter 24, of a second-stage planned unit development and modification to a first-stage planned unit development for its Foggy Bottom campus. The Commission is authorized under the aforementioned provisions to grant a special exception which, in the judgment of the Commission, will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. A special exception to allow use as a college or university in a Residence zone may be granted subject to the provisions contained in § 210, including that the university use must be "located so that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions" and that the maximum bulk requirements may be increased for specific buildings, subject to restrictions based on the total bulk of all buildings and structures on the campus. The Commission is also authorized under the Zoning Act to approve planned unit developments consistent with the requirements set forth in Chapter 24 of the Zoning Regulations.

2. Based on the above Findings of Fact and pursuant to Condition P-15 of Z.C. Order No. 06-11/06-12, the Commission concludes that the University has satisfied the burden of proof for special exception approval of further processing of its campus plan in accordance with § 210. In particular, the Commission concludes that the proposed project will not create objectionable traffic, parking, pedestrian, or other impacts on the surrounding community.

3. Also based on the above Findings of Fact, the Commission concludes that the University has satisfied the burden of proof for approval of the second-stage PUD and related modification of the first-stage PUD under Chapter 24 of the Zoning Regulations. Approval of this Project will provide high-quality development that provides public benefits, is consistent with the overall goal of the PUD process to permit flexibility of development and other incentives provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience."

4. The proposed PUD meets the minimum area requirements of 11 DCMR § 2401.1.

5. Under the PUD process and pursuant to Condition P-14 of Z.C. Order No. 06-11/06-12, the Commission has the authority to consider this application as a second-stage PUD. This second-stage review permits detailed design review of each project based on the conceptual height, density and use parameters established in the first-stage PUD and the benefits and amenities approved in exchange for that height, density, and design flexibility. The Commission concludes that the Project is consistent with the first stage PUD, including the parameters regarding location, use, height, bulk, and parking set forth for the Property in the first-stage PUD.

6. In approving the PUD, the Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards. In this application, the Commission concludes that the requested flexibility from the rear yard requirement can be granted without detriment to surrounding properties and without detriment to the zone plan or map.

7. Based on the documentation included in the initial PUD application, the Commission concludes that the University has demonstrated compliance with the conditions of the first stage PUD as detailed in Condition P-16 of Z.C. Order No. 06-11/06-12.

8. Based on the University's most recently filed Foggy Bottom Campus Plan Compliance Report, which was included in the initial application package, the Commission concludes that the University is in substantial compliance with Z.C. Order No. 06-11/06-12.

9. The development of this PUD project will carry out the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter of right standards. The character, scale, mix of uses, and design of uses in the proposed PUD are appropriate, and the proposed development is compatible with the citywide and area plans of the District of Columbia.

10. The Commission concludes that this project provides superior features that benefit the surrounding neighborhood to a significantly greater extent than a matter-of-right development on the Property would provide. The Commission finds that the urban design, site planning, efficient and safe traffic circulation, sustainable features, and streetscape improvements all are significant public benefits.

11. The Commission concludes that the impact of the project is acceptable given the quality of the public benefits of the project. The proposed interim treatment of the surface improvements is appropriate. The Commission agrees with the conclusions of the University's traffic expert that the proposed project will not create adverse traffic, parking, or pedestrian impact on the surrounding community. The Commission further agrees that access from G Street or through a one-way alley is not appropriate, and would in fact create greater impacts on vehicular and pedestrian circulation on the surrounding road network.

12. Approval of the PUD and further processing application is not inconsistent with the Comprehensive Plan. The Commission agrees with the determination of OP and finds that the proposed project is consistent with and furthers numerous goals and policies of the Comprehensive Plan, including the Land Use Element provisions related to educational institutions, transportation impacts, and corporate leadership in exemplary design, as well as related provisions in other citywide elements and policies in the Near Northwest Area Element related to managing the impacts of campus development.

13. The Commission has judged, balanced, and reconciled the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects, and concludes approval is warranted.

14. The Commission is required under D.C. Official Code § 6-623.04 to give great weight to OP recommendations. The Commission concurs with OP's view that the first-stage PUD modification, second stage approval and further processing approval should be granted.

15. In accordance with D.C. Official Code § 1-309.10(d), the Commission must give great weight to the written issues and concerns of the affected ANC. The Commission accorded the issues and concerns raised by ANC 2A the "great weight" to which they are entitled, and in so doing fully credited the unique vantage point that ANC 2A holds with respect to the impact of the proposed application on the ANC's constituents. The Commission notes that the ANC took no position on the application, and concludes that the concerns raised by the ANC were either addressed by the University at the public hearing or exceeded the scope of the Zoning Regulations.

16. Notice of the public hearing was provided in accordance with the Zoning Regulations.

17. The University is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the applications for (1) modification of the first-stage planned unit development ("PUD") for The George Washington University Foggy Bottom Campus; (2) second-stage PUD approval for property consisting of Square 103, Lots 13, 14, 18, 809, 812, 813, 814, 819, and 820 ("Property")[2]; and (3) further processing approval of the 2007 Foggy Bottom Campus Plan. This approval is subject to the following guidelines, conditions, and standards:

1. This project shall be developed in accordance with the plans marked as Tab A of Exhibit 6 of the record and as modified by Exhibit 31 of the record, as modified by guidelines, conditions, and standards herein.

2. The University shall have flexibility from the rear yard provision of the Zoning Regulations as shown on the approved plans.

3. The project shall be used for academic/administrative/medical and parking uses.

[2] Concurrently with the Zoning Commission review process, the Property was subdivided into a single record lot, Lot 44.

4. The project shall provide parking as shown on the approved plans, provided:

   a. The University shall be permitted to make alterations to the design of the underground parking garage, provided that the garage contains approximately 392 parking spaces, which requirement may be satisfied with any combination of compact and full-sized spaces;

   b. The University shall cease to provide parking on the interim surface lot shown on the approved plans upon the issuance of a certificate of occupancy for the second stage PUD currently pending before the Commission in Z.C. Case No. 06-11B/06-12B; and

   c. The University shall set aside a minimum of six spaces and related charging stations in the garage for electric vehicles.

5. The University shall design the project to achieve the equivalent of a minimum of a Silver rating on the LEED-NC 2009 rating system.

6. The University shall provide a minimum of 60 bicycle parking spaces on the surface of the Property, as shown on the approved plans.

7. Prior to the issuance of a certificate of occupancy for the project, the University shall demonstrate that it has:

   a. Constructed the streetscape improvements shown on the approved plans;

   b. Widened the alley to a total width of 20 feet;[3] and

   c. Constructed the paving, marking, and signage improvements at the alley intersections with both 20th Street and 21st Street, as described on pages 5-6 and shown on pages A10 and A12 of Tab A of Exhibit 39 of the record.

   The final design of any improvements in public space shall be subject to final approval from DDOT and may be modified in response to DDOT direction.

8. The University shall have flexibility with the design of the PUD in the following areas:

   a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration or appearance of the structure;

[3] The additional four feet of alley width shall be on the University's property.

b. To vary final selection of the exterior materials within the color ranges and materials types as proposed based on availability at the time of construction; and

c. To make minor refinements to exterior details and dimensions, including balcony enclosures, belts, courses, sills, bases, cornices, railings, and trim, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit.

9. No building permit shall be issued for this project until the University has recorded a covenant among the land records of the District of Columbia between the owners and the District of Columbia that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs. Such covenant shall bind the University and all successors in title to construct on or use the Property in accordance with this Order and any amendment thereof by the Zoning Commission.

10. The application approved by this Commission shall be valid for a period of two (2) years from the effective date of this Order. Within such time, an application must be filed for the building permit as specified in 11 DCMR § 2409.1.

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

On March 14, 2011, upon the motion of Chairman Hood, as seconded by Commissioner May, the Zoning Commission **APPROVED** this application at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Konrad W. Schlater, Peter G. May, and Greg M. Selfridge to approve; Michael G. Turnbull to approve by absentee ballot).

On April 25, 2011, upon the motion of Commissioner Turnbull, as seconded by Commissioner Selfridge, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Konrad W. Schlater, Peter G. May, Greg M. Selfridge, and Michael G. Turnbull to adopt).

In accordance with the provision of 11 DCMR § 3028.8, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on July 22, 2011.

ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION

JAMISON L. WEINBAUM
DIRECTOR
OFFICE OF ZONING

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning

Z.C. CASE NO.: 06-11A/06-12A

As Secretary to the Commission, I hereby certify that on JUL 20 2011 copies of this Z.C. Order No 06-11A1/06-12A1 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

1. *D.C. Register*

2. Dave Avitable, Esq.
   Maureen Dwyer, Esq.
   Goulston and Storrs
   1999 K Street, N.W. Suite 500
   Washington, D.C. 20006

3. ANC 2A
   West End Branch Library
   1101 24th Street, N.W.
   Washington, D.C. 20037

4. Commissioner Florence Harmon
   ANC/SMD2A06
   1099 22nd Street N.W. #1011
   Washington, D.C .20037

5. Gottlieb Simon
   ANC
   1350 Pennsylvania Avenue, N.W.
   Washington, D.C. 20004

6. Councilmember Jack Evans

7. DDOT (Martin Parker)

8. Melinda Bolling, Acting General Counsel
   DCRA
   1100 4th Street, S.W.
   Washington, DC 20024

9. Office of the Attorney General (Alan Bergstein)

10. West End Citizens Association
    c/o Barbara Kahow
    800 25th Street, N.W #704
    Washington, D.C. 20037

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