

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 14250, of the American University, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3101.46 to amend the American University campus plan to include the use of the subject premises as a parking lot in an R-5-A District at premises 3501 Nebraska Avenue, N.W., (Square 1601, Lot 3).

HEARING DATE: March 13, 1985

DECISION DATE: April 3, 1985

FINDINGS OF FACT:

1. The subject BZA Application No. 14250 was filed in connection with BZA Application No. 14185 which was approved by the Board in its Order dated March 20, 1985. The subject application is for a special exception to amend The American University (the University) Campus Plan to include the Nebraska Avenue parking lot (the Nebraska lot) in the campus boundaries, to increase its parking capacity by 208 spaces and to modify its entrances, and to continue use of the parking lot.

2. BZA Application No. 14185 was filed by the University on July 19, 1984. It requested a special exception to construct a sports and convocation center (the center).

3. The applicant requires the additional parking on the Nebraska Lot in order to comply with Condition No. 2 of BZA Order No. 14185. That condition requires that the University provide at least 2,490 off-street parking spaces on its campus before a certificate of occupancy for the center can be obtained.

4. Further, the applicant requires the additional parking to comply with the agreement of November 13, 1984, between the University, Advisory Neighborhood Commission 3D (ANC 3D), and the Spring Valley-Wesley Heights Citizens Association (SVWH). An integral aspect of that agreement requires that 219 additional spaces be provided on the Nebraska Lot in order to meet the parking demands that will be generated by the center.

5. The University currently has a total supply of 2,115 parking spaces, of which 261 spaces will be displaced by the center. The parking garage component of the center

will contain 438 new parking spaces. This number includes 420 spaces as approved by BZA Order No. 14185, plus sixteen additional spaces. With the addition of 208 parking spaces to the Nebraska Lot, the University's total parking supply will be 2,500 spaces.

6. The University is the fee simple owner of the Nebraska Lot. The property has been operated by the University since 1959 as a parking facility for students, faculty, staff and guests of the University, through a series of special exception approvals by this Board. The most recent approval was authorized by BZA Order No. 12693, for a period of five years from July 28, 1978 to July 28, 1983. The certificate of occupancy issued pursuant to the order expired through inadvertence by the University.

7. In 1959, when the University began using the subject property for parking, it was owned by the United Methodist Corporation. The University leased the property from 1959 until 1976, when it purchased the property from the Methodist Corporation.

8. The American University Campus Plan was approved by this Board on September 3, 1974, in BZA Application No. 11646. The Nebraska Lot was not included in the boundaries of the Campus in the 1974 Campus Plan because it was not owned by the University at that time. The Campus Plan, however, acknowledged the University's use of 685 parking spaces on the Nebraska Lot.

9. The only new construction of buildings undertaken by the University, in accordance with the approved 1974 Campus Plan, has been Phase I of the Library Learning Resource Center on the south end of the campus mall, approval on April 1, 1977, by BZA Order No. 12228. Other matters involving the Campus Plan have included the approval of a satellite ground terminal as further processing under the Campus Plan approved on January 9, 1980, by BZA Order No. 13095, and an amendment to the Campus Plan to include Nebraska Hall, the former Baptist Home, at 3700 Nebraska Avenue, N.W., for use as a dormitory and adjunct student health services facility approved on October 5, 1981, by BZA Order No. 13680. BZA Application No. 14185, to construct the center, was approved on March 20, 1985.

10. The Nebraska Lot is located on the southeast side of Nebraska Avenue between Massachusetts and New Mexico Avenues, N.W. It consists of approximately 8.1 acres of land and is rectangular in shape. The Nebraska Lot is bounded by Massachusetts Avenue to the northeast, Nebraska Avenue to the northwest, New Mexico Avenue to the southwest, and the Westover Place townhouse development to the southeast.

11. The Nebraska Lot presently contains 688 designated parking spaces. The portion now devoted to parking is paved with asphalt. The remainder of the lot is undeveloped and occupied with trees and other vegetation. Access to the lot is currently available by way of both Nebraska and New Mexico Avenues. There is a ticket booth at each entrance. The Massachusetts Avenue boundary of the lot is occupied by trees and other plantings. There is a six to ten foot high masonry wall which runs across the eastern boundary of the lot separating it from the Westover Place townhouse development.

12. The subject application as filed on November 27, 1984, called for the opening of a new entrance on Massachusetts Avenue, the closing of the Nebraska Avenue entrance and the shifting of the New Mexico Avenue entrance. The original plan contained an entrance on Massachusetts Avenue. This entrance was supported by the Department of Public Works (DPW) on the assumption that the Naval Security Station, located across from the Nebraska Lot on Massachusetts Avenue, would align its driveway so that both entrances could be served by the same traffic signal. Closing the Nebraska Avenue entrance would eliminate the hazards of jaywalking and illegal left turns which currently exist at this location.

13. Since the original filing of the application, the Navy stated that it was no longer interested in the installation of a traffic signal on Massachusetts Avenue. Further, residents of the Embassy Park and Westover Place townhouse developments and residents of Advisory Neighborhood Commission 3E (ANC 3E) opposed an entrance on Massachusetts Avenue. As a result, a revised plan was submitted in the applicant's prehearing filing on February 27, 1985. The revised plan does not include a Massachusetts Avenue entrance.

14. The original plan called for the addition of 219 parking spaces to the Nebraska Lot. Through closer examination of the lot, it was determined that only 208 parking spaces could be added. It was also determined that the remaining eleven spaces could be provided in the garage of the center. BZA Application No. 14185 proposes 420 parking spaces for the garage. Through the use of compact car spaces, the University can provide eighteen additional parking spaces in the garage which will result in a total of 438 spaces.

15. The University's revised plan is to increase the parking capacity of the Nebraska Lot by adding 208 parking spaces. This will be achieved by making forty percent of the parking spaces for compact cars, as permitted by the parking and loading amendments to the Zoning Regulations, which became effective on March 1, 1985. The additional

parking spaces will also be achieved by removing dead trees and other vegetation which currently occupy the area of the lot that abuts Massachusetts Avenue. Once this area has been cleaned out, the existing parking lanes will be extended, thus creating additional parking area.

16. The Nebraska Avenue entrance to the lot will be redesigned in order to prevent illegal left turns into the lot from Nebraska Avenue by southbound vehicles and to increase the queuing capacity for vehicles entering the lot at this location. This will be achieved by providing a fifty foot radius for the inbound lane, a twenty-five foot radius for the outbound lane and a channelized island which separates these lanes and prevents vehicles from turning left into the lot. The existing ticket booth will be relocated deeper into the lot, approximately 100 feet from the street, which will allow a greater queuing capacity for vehicles.

17. A six foot high, black chain link fence will be erected along the Nebraska Avenue boundary of the lot in order to help prevent jaywalking across Nebraska Avenue to and from the main campus. The fence will encourage pedestrians to cross Nebraska Avenue at the designated crosswalks which are located on Nebraska Avenue at New Mexico Avenue and Ward Circle.

18. The New Mexico Avenue entrance to the lot will be redesigned in order to facilitate ingress and egress at this location. This will be done by creating a separate lane which will be designated for inbound traffic only. It will have a queuing capacity for seven vehicles. The existing driveway at this location will be designated exclusively for outbound traffic. The ticket booth will be relocated within the lot in connection with the new inbound lane.

19. As indicated in Exhibit No. 61B of the record, the lot will be landscaped with a variety of perennial ground covers, shrubs and small flowering trees. It will also contain a canopy of large deciduous and evergreen trees. The fence along Nebraska Avenue will be screened with a collection of vines and evergreens. The University will remove thirty-nine of the 174 existing trees along the Massachusetts Avenue boundary of the lot.

20. The existing curb cut and asphalt drive located on the Massachusetts Avenue side of the lot will be eliminated and replaced with plantings. This will eliminate unauthorized parking at this location.

21. The internal circulation of the Nebraska Lot will remain basically the same. Some aisles at the western end will be shortened to accommodate the new driveway

configuration while aisles at the eastern end will be lengthened to expand the parking lanes.

22. The traffic consultant for the applicant testified that the proposed plan for the Nebraska Lot would have little or no affect on the traffic volumes in the morning peak period, the mid-day peak period, or the evening rush hour. He also testified that the largest impact of the expanded lot would be an eight percent increase in the traffic approaching the intersection of New Mexico Avenue, southbound, on Nebraska Avenue. An analysis conducted for this intersection, showed that the increase in traffic volume would not change the level of service at this section. The Board so finds.

23. The traffic expert also testified that the additional 208 parking spaces would relieve parking pressures in the area and that the physical redesign of the entrances would enhance traffic flows on adjacent roadways and reduce traffic conflicts. He further testified that traffic conflicts would be eliminated at this location by removing the opportunity for vehicles to turn left at Nebraska Avenue and increasing the queueing distance for inbound vehicles. Moreover, he testified that pedestrian-vehicle conflicts would be minimized since the proposed fencing along Nebraska Avenue will cause pedestrians to cross at the designated crosswalks at New Mexico Avenue and Ward Circle. The Board so finds.

24. With regard to the New Mexico Avenue entrance, the traffic expert testified that the proposed redesign of that driveway will lessen queueing on New Mexico Avenue, facilitate ingress and egress and thereby reduce traffic conflicts on New Mexico Avenue. The Board so finds.

25. The landscape architect for the applicant testified at the public hearing that the Nebraska Lot would be landscaped in a manner which would preserve the greatest number of trees and be consistent with and complimentary to the surrounding area. The Board so finds.

26. The Vice President for Finance and Treasurer of the University testified that the proposed plan for the Nebraska Lot would allow the University to meet the parking demands that will be generated by the center and comply with a conditions of BZA Order No. 14285 approving the center. The Board so finds.

27. The Department of Public Works (DPW), by memorandum dated March 6, 1985, and by testimony at the hearing, indicated that it was in support of the revised plan for the Nebraska Lot. The DPW reported that the revised plan for the Nebraska Lot would achieve the objectives of the original plan, which were to reduce

traffic conflicts on external roadways and eliminate illegal left turns and jaywalking at the Nebraska Avenue entrance. The DPW also reported that the proposed expansion of the lot by 208 spaces would have a negligible impact on the area. It indicated that the University would have to coordinate all design and construction elements of the plan with DPW and assume the costs of construction. The Board so finds.

28. The Office of Planning (OP), by memorandum dated March 6, 1985, and by testimony at the public hearing, reported its support for the proposed modifications to the Nebraska Lot. The OP testified that the plan for the lot is consistent with the Campus Plan which recognizes the existence of parking on the Nebraska Lot. The OP was of the opinion that the proposed plan for the Nebraska Lot would not become objectionable to the neighboring properties because of noise, traffic, number of students, or other objectionable conditions. The OP further reported that the proposed plan was in harmony with the general purposes of the Zoning Regulations and Map of the District of Columbia.

29. The OP recommended that the Board condition its approval of the application on the construction, landscaping and maintenance of such landscaping in accordance with the site plan in the record. The Board concurs with the findings and recommendation of the OP.

30. Advisory Neighborhood Commission 3D, within which the subject property is located, by letter dated February 28, 1985, and by testimony at the public hearing, reported its support of the application. The ANC indicated that it viewed the revised plan as an improvement over the originally proposed plan. It recommended that the Board grant approval subject to the incorporation of the applicant's proposal to upgrade the Nebraska Lot by improving the lighting, landscaping, maintenance and security of the lot. The Board concurs.

31. The Spring Valley-Wesley Heights Citizens Association, by letter dated March 1, 1985, stated its full support for the application. The SVWH reported that the additional 208 parking spaces and the inclusion of the lot in the Campus boundaries were crucial elements of the agreement of November 13, 1985, between the University and ANC 3D/SVWH. The SVWH noted that the University had not complied with a previous BZA Order which called for certain landscaping on the Nebraska Lot. Further, it expressed concerns about the University's compliance with the current landscape plan for the Nebraska Lot.

32. Advisory Neighborhood Commission 3E, which includes property across Massachusetts Avenue from the subject site, by letter dated March 6, 1985, and by testimony at the public hearing, reported its support for the subject

application as revised. The ANC stated that it was opposed to the applicant's original plan which called for the opening of a new entrance to the Lot on Massachusetts Avenue. The ANC recommended that the BZA:

- A. Require the University to provide more than 208 parking spaces in order to accommodate future growth. It suggested that the BZA consider the use of underground parking to achieve this end;
- B. Consider recommending that the University build at least one underground walkway to connect the parking lot to the main campus;
- C. Disapprove any proposal to open a Massachusetts Avenue entrance to the Lot. The ANC noted that the University had revised its original plan and indicated its support for the new plan;
- D. Approve the redesign of the New Mexico Avenue entrance since the redesign would help to reduce queuing;
- E. Urge the DPW to disapprove any proposal to establish a left hand turn lane signal at the University's Glover Gate;
- F. Urge the DPW to extend parking restrictions east and west of Ward Circle to help reduce traffic congestion from cars entering and existing the Circle; and
- G. Prohibit buses from parking near the abutting residential townhouse development on the Nebraska Lot.

33. At the public hearing, opposition was raised and reservations were expressed by neighboring residents regarding the University's compliance with previous and future BZA orders. The basic grounds for the opposition and/or concerns regarding the application were as follows:

- A. The Greenbriar Condominium, located at 4301 Massachusetts Avenue, alleged that it had not received sufficient notice of Application No. 14250. Further, it stated that the proposed removal of trees along the Massachusetts Avenue boundary of the lot would result in the elimination of the buffer which the trees currently provide to its residents.
- B. The University had not complied with certain conditions of previous BZA orders and therefore was not likely to comply with conditions of the future BZA orders.

- C. The Nebraska Lot had not been properly or adequately maintained. Donna Fitzpatrick, Vice President of the Embassy Park Townhouse Association, by letter dated March 11, 1985, stated that the applicant had not addressed the issue of increased traffic on surrounding roadways which will result from expanding the capacity of the Nebraska Lot. She also stated that the Nebraska Lot is marked by litter, unkempt vegetation, mud, eroded berms, rat infestation, and that storm drainage from the lot washes mud over the sidewalk. Further, she stated that the lighting on the lot is not designed to minimize glare into neighboring residences and that there is no sidewalk along the New Mexico Avenue boundary of the lot.
- D. The increase in parking spaces on the lot would result in more congestion on the external roadways which are already operating at full capacity.
- E. The Nebraska Lot should not be considered for inclusion in the Campus boundaries until the Campus Plan is revised in eighteen months.

34. The Board is required by statute to give "great weight" to the issues and concerns of ANC 3D, the ANC within which the Nebraska Lot is located. The Board has further given consideration to the concerns and issues raised by ANC 3E, whose boundaries abut the lot.

35. During the hearing, the Board expressed concern about the location of the compact car spaces on the Nebraska Lot. The Board noted that most of the compact car spaces were proposed for the southeastern portion of the lot. It further noted that compact cars would more than likely occupy the first parking spaces available upon entry to the lot instead of driving to the southeastern portion of the lot to locate compact spaces.

36. In response to this and other concerns raised at the hearing, the Board required that the applicant submit the following materials:

- A. A plan indicating where buses would park on the Nebraska Lot;
- B. A landscape plan indicating the size and type of new trees that will be planted on the Nebraska Lot;
- C. A revised parking plan indicating a redistribution of compact car spaces on the Nebraska Lot;

- D. A landscape maintenance program; and
- E. A response to the letter of March 11, 1985, by Ms. Fitzpatrick.

37. On March 20, 1985, the applicant submitted the requested information.

38. The Board finds that the 208 parking spaces proposed for addition to the lot along with the eighteen additional spaces that are proposed for the garage are adequate to meet the University's parking demands. The Board further finds that the proposed increase in the capacity of the lot will have very little, if any, impact on traffic movements on adjacent roadways. The Board also finds that the proposed modifications to the Nebraska and New Mexico Avenue entrances to the lot will serve the purposes intended by the applicant.

39. As to concerns regarding the current maintenance of the lot, the Board finds that the applicant's proposed landscape and maintenance plan will improve the current condition of the lot and adequately safeguard against the collection of litter and other debris. The Board's approval of the application will be subject to the conditions stated below regarding improvement and maintenance of the lot.

40. As to concerns regarding the lighting on the lot, the Board finds that the applicant's statement in its filing on March 20, 1985, sufficiently addresses this issue. The applicant has agreed to adjust or shield, as necessary, the existing mercury vapor lighting fixture on the lot to ensure against any glare into neighboring residences.

41. With regard to the security of the lot, the Board finds the applicant's current security measures adequate. The applicant testified at the hearing that the lot is patrolled by the University's security, parking and traffic office on an hourly basis throughout the day and evening. The Board finds that these measures provide a sufficient safeguard to users of the lot.

42. With regard to the concern about buses parking on the lot near the residential townhouse development, the Board finds that the applicant's bus parking plan, submitted on March 20, 1985, adequately addresses and satisfies these concerns. The Board will also make its approval of the application subject to the applicant's compliance with its bus parking program.

43. As to the distribution of compact parking spaces on the lot, the Board finds that the applicant's revised parking plan submitted on March 20, 1985, significantly improves the distribution of compact spaces. The Board

finds that this redistribution will help to insure that compact cars park in compact car spaces. The Board will also condition its approval of this application on the implementation of the revised parking plan.

44. With regard to the allegation by the residents of the Greenbriar Condominium complex that they were not given adequate notice of Application No. 14250, the Board finds that the Greenbriar is not located within 200 feet of the subject property. The Supplemental Rules of Practice and Procedure before the Board therefore do not require individual notice to be given to each resident of the building.

45. As to concerns raised about the size, caliper and type of plantings that will be added to the Nebraska Lot, the Board is satisfied that the new plantings proposed for the lot as shown on Exhibit No. 61B of the record, are appropriate replacements for those that will be removed. The Board also concurs with the applicant's plan for maintaining the landscaping of the lot.

46. As to the recommendation by ANC 3E that the University build an underground tunnel from the Nebraska Lot to the main campus, the Board finds that this issue is not properly before the Board for consideration, because it is a use of public space which the Board cannot approve. The applicant's plan calls for the construction of a six foot high, chain link fence across the Nebraska Avenue boundary of the lot to force pedestrians to cross Nebraska Avenue at the designated crosswalks. The Board finds that the fence will serve as an effective deterrent to the problem of jaywalking. The Board further notes that the applicant testified that public sidewalks will be installed along the entire length of the subject property down to the Foxhall complex.

47. As to the recommendation by ANC 3E that the Board disapprove any proposals to establish a turn signal at Glover Gate, the Board finds that this is not an issue properly before it for consideration.

48. As to concerns regarding the extension of parking restrictions on residential streets east and west of Ward Circle, the Board finds that this is a matter within the jurisdiction of DPW and not the Board.

49. Opposition was voiced regarding an amendment to the Campus Plan to include the Nebraska Lot prior to revision of the Campus Plan. The Board finds that a Campus Plan amendment is appropriate for consideration at any point in time, notwithstanding the upcoming revision of the Campus Plan. The Board further notes that the property has been used as a parking lot by the University for many years, even though it has not been considered in the Campus Plan. Approval of this application make no change to the current situation.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking a special exception, the granting of which requires that the proposal meet the requirements of Paragraph 3101.46 of the Regulations and that the relief requested can be granted as in harmony with the general purpose and intent of the Regulations and will not tend to adversely affect the use of neighboring property.

The Board concludes that the applicant has met its burden of proof. The proposed use, as conditioned below in the grant of this application, is not likely to become objectionable to neighboring property because of noise, traffic, number of students or other objectionable conditions. The use will not have an adverse affect on neighboring property. The additional parking spaces proposed for the Nebraska Lot will meet the parking demands generated by the center. The proposed modification to the entrances of the lot will facilitate access and improve traffic conditions on external roadways.

The Board further concludes that it has accorded to ANC 3D the "great weight" to which it is entitled. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

1. The location of driveways and the layout of parking spaces shall be as shown on the revised plan marked as Exhibit No. 61A of the record.
2. The subject site shall be landscaped in accordance with the plan marked as Exhibit No. 61B of the record.
3. Landscaping shall be maintained in accordance with the landscape maintenance schedule set forth on pages two and three of Exhibit No. 61 of the record.
4. The parking of buses on the subject lot, if necessary, shall be limited to the row of spaces and the aisle located close to the Nebraska Avenue boundary of the lot.
5. The wooded area of the subject lot which abuts Massachusetts Avenue shall be cleaned and dead or unhealthy trees shall be removed and replaced with new planting.
6. The applicant shall provide a storm water management system on the site in accordance with the standards and guidelines required by the Department of Public Works.

7. The applicant shall provide trash containers on the site at the pedestrian and vehicular exits to help deter the accumulation of litter and debris on the surface of the lot.
8. The applicant shall provide barrier free curb cuts for handicapped persons.
9. All lighting on the lot shall be so designed and shielded so that all direct ray of the lights do not extend beyond the boundaries of the paved area.
10. Approval of the subject lot shall expire on September 20, 1986, by which date the University shall submit an application to the Board for approval of a new campus plan to cover an appropriate period beyond 1984, as required by BZA Order No. 14185, dated March 20, 1985.

VOTE: 4-0 (Charles R. Norris, Lindsley Williams, William F. McIntosh and Carrie L. Thornhill to grant; Douglas J. Patton not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
\_\_\_\_\_  
STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: 29 JUL 1985

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

14250order/LJPF