

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 14261, of the George Washington University, as amended, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for the following relief to construct a nine story rear addition to the subject structure, the H.R. Burns Memorial Building according to the plans marked as Scheme 2 (Exhibit No. 69 of the record):

- A. Special exception under Paragraph 3101.46 for further processing under a campus plan;
- B. Special exception under Sub-section 3308.2 to permit a separate roof structure not meeting the setback requirements of Paragraph 5201.24 and which does not place all penthouses and mechanical equipment in one enclosure and which does not have all enclosing walls of equal height;

or in the alternative, for the following relief to construct the addition to the subject structure according to the plans marked as Scheme 2 (Exhibit No. 62 of the record):

- A. Special exception under Paragraph 3101.46 for further processing under a campus plan;
- B. Special exception under Sub-section 3308.2 to permit a separate roof structure not meeting the setback requirements of Paragraph 5201.24 and which does not place all penthouses and mechanical equipment in one enclosure and which does not have all enclosing walls of equal height;
- C. Variance from the open court width requirements (Sub-section 3306.1); and
- D. Variance from the prohibition against making an addition to an existing nonconforming structure that creates a new nonconformity (Paragraph 7105.12). in an R-5-C and C-3-C District at premises 2150 Pennsylvania Avenue, N.W., (Square 75, Lots 855, 857, 849, 819, 818, 856 and 814).

HEARING DATES: February 27, May 8, June 26, July 31 and  
October 16, 1985

DECISION DATES: September 4, September 18 and November 6,  
1985

FINDINGS OF FACT:

1. The George Washington University (hereafter "GWU") is the applicant herein. The intervenors are the President Condominium Association and James T. Draude, an owner and resident in the President Condominium.

2. GWU filed its application for special exceptions for the alternative now labelled Scheme 1 on December 14, 1984. The application was advertised for hearing on February 27, 1985. On motion of the Intervenors, the Board remanded the application to the Zoning Administrator to determine whether additional zoning relief was necessary. On March 21, 1985, the Zoning Administrator ruled that the application required an additional special exception for a roof structure which does not place all penthouses and mechanical equipment in one enclosure and which does not have all enclosing walls of equal height. A revised application was advertised for hearing on May 8, 1985. At the hearing on May 8, 1985, the Board granted GWU's motion for leave to amend its application to include an alternative design for the proposed addition (labelled Scheme 2) and to postpone the hearing to allow Scheme 2 to be advertised. GWU filed an amended application on May 9, 1985, and the application was advertised for hearing on June 26, 1985.

3. GWU was founded in 1821 by an Act of Congress. The University has been located in the Foggy Bottom/West End area since 1912. It is fully accredited, authorized to confer degrees, and qualifies as a university under the Zoning Regulations. Development of the University is governed by the Campus Master Plan approved by the Board in 1970 in BZA Application No. 10403.

4. The Campus Master Plan boundaries are generally Pennsylvania Avenue to the north, 19th Street to the east, F Street to the south and 24th Street to the west. The boundaries include approximately 19 squares of approximately 45 acres. The University is the predominant land owner within the designated boundaries.

5. The subject premises, known as 2150 Pennsylvania Avenue, N.W., is located on the southeast corner of the intersection of Pennsylvania Avenue and 22nd Street, N.W. The site is split-zoned C-3-C and R-5-C with the line of demarcation running immediately to the rear of the existing structure.

6. The site is long, narrow and generally rectangular in shape containing approximately 29,652 square feet with 100 feet of frontage on Pennsylvania Avenue, 323 feet on 22nd Street and 82 feet on Eye Street. The northern portion of the site is presently improved with the H.B. Burns

Memorial Building while the southern portion is presently used as a University parking lot for 53 automobiles.

7. The University is located in a downtown urban neighborhood characterized primarily by highrise commercial, institutional and residential buildings and uses. Buildings are permitted to be 90 feet in height. To the east of the university, which is zoned C-3-C and C-4, are the White House, the General Services Administration, the World Bank, the International Monetary Fund and various other institutional, public and private offices. To the north, across Pennsylvania Avenue the land is zoned C-3-C. This is the location of the city's West End Business section which has undergone a variety of highrise developments in recent years including International Square, the Esplanade, the Regent Hotel and numerous other commercial and highrise residential buildings. To the immediate west the zoning is R-5-D and is occupied by several highrise apartment buildings. Farther west the zoning is R-5-B; this is the location of several blocks of townhouses. To the southwest is the John F. Kennedy Center for the Performing Arts and the Watergate Complex in an area zoned SP-2. To the immediate south the tier of blocks between E and F Streets is zoned R-5-D and is the location of highrise apartment and condominium buildings and institutional office buildings. Further south, across the E Street Mall, are the State Department, Civil Service Commission, and other federal and institutional office buildings which, except for unzoned Federal land, are in an area zoned SP-2.

8. The subject site is bordered by Pennsylvania Avenue to the north, Eye Street to the south, a restaurant, a 28 foot public alley and the President Condominium to the east, and 22nd Street to the west. The University is the predominant landowner in the square. On Eye Street, the entire street except for the President Condominium is owned by the University. University uses surrounded the Condominium on three sides. The only other nonuniversity uses are five small commercial facilities with frontage along Pennsylvania Avenue.

9. The President Condominium is located adjacent to the subject site at 2141 Eye Street. There are 125 units in the building, 17 one bedroom units and 108 efficiencies. The building was constructed in 1940 as an eight-story apartment building and remained as such until it was converted in 1981 into condominiums.

10. Twenty-second Street is a local street, one-way northbound, with a paved width of 32 feet. Two-hour metered parking is allowed on the east side of the street between 7:00 A.M. and 6:30 P.M. On the west side, two-hour metered parking is allowed between 9:30 A.M. and 4:00 P.M.

11. Eye Street is a local street with a paved width of 32 feet. Two-hour residential permit parking is in effect on both sides of the street between 7:00 A.M., and 6:30 P.M.

12. Pennsylvania Avenue is a principal arterial with a paved width of 80 feet. Parking is not permitted during the peak period in the peak direction curb lane.

13. The site is within the service area of the Foggy Bottom Metrorail station, which is less than 500 feet from the project. In addition, the site is served by the Pennsylvania Avenue Metrobus line. The 30, 32, 34 and 36 routes link the site to downtown and the Friendship Heights area.

14. The applicant seeks Board approval for construction of an addition to the H.B. Burns Memorial Building. The Burns building houses much of the office practice of the faculty associated with the University Medical School. The addition is intended to relieve overcrowding within the Burns Building and to permit off-campus medical facilities housed within leased space to return to campus. Included in this later category is the Department of Health Care Sciences currently located at 1229 25th Street, N.W. The Board granted permission to the University to locate at this address premised on eventual relocation of the activities to the main university campus in BZA Orders 11952 and 13350. The Department of Health Care Sciences serves approximately 20,000 enrollees in an HMO, as well as other clients needing medical care.

15. In addition to examination, treatment and support space for the Department of Health Care Sciences, the proposed addition will contain medical faculty office space, administrative office and support space, multiple exam and procedure rooms, and consolidate ambulatory care services offered at the University Medical Center into a modern, functionally efficient complex capable of providing convenient, consumer oriented medical service.

16. To achieve this objective, the applicant has submitted to the Board two alternative designs for the addition. Scheme 1 contains 120,950.99 square feet within a structure which is 90 feet in height as measured from Pennsylvania Avenue and 118.06 feet in height inclusive of penthouse as measured from Eye Street. The height differential results due to a grade change. The structure consists of a total of 12 levels, eight above grade and four below. Of the 12 levels, nine will be used for medical related activities while three will be used for underground parking. A total of 140 full sized, 9 feet by 19 feet parking spaces will be provided, accessible by way of a ramp from Eye Street, N.W. Vehicular access to the addition is also available from a circular driveway with curb cuts on Eye

Street and 22nd Street, N.W. This driveway permits a drop off/pick-up point for nonambulatory patients at the front entrance of the structure. Access to the structure is also available by way of elevators from the parking garage and connections with the Burns Building.

17. Scheme 2 was developed by the University after a series of meetings with Councilmember John Wilson, the Office of Planning and the President Condominium. In an effort to ameliorate the concerns of the Condominium, the University was encouraged to develop a design that would provide additional light and air. The configuration of Scheme 2 was not originally applied for by the University since it required the approval of two variances. Scheme 2 contains 121,923.4 square feet and is likewise 90 feet in height from the point of measurement. The number of levels contained in the Scheme 2 structure is the same as those in Scheme 1 and the distribution of functions by level is likewise identical. Finally, the two plans also correspond in terms of the number of parking spaces, vehicular access points, and pedestrian entrances.

18. The major difference between the two schemes is the distance between the east wall of the proposed addition and the west wall of the adjacent nonuniversity owned residential structure, the President Condominium. In Scheme 1, a portion of the east wall of the proposed addition extends along the eastern corner of the President Condominium. In Scheme 2, the proposed addition has been pulled back approximately 21 feet from the eastern property line on the subject premises at the point where the west wall of the President Condominium also runs along its property line. The court yard area expands to approximately 36 feet to the north. The net effect of the setback is the creation of a court between the proposed addition and the subject premises' eastern property line. To offset the loss of gross floor area resulting from the setback, the applicant has pushed the Scheme 2 structure out closer to Eye Street. Thus, while in Scheme 1 the proposed addition is set back approximately 32 feet from Eye Street, in Scheme 2 this setback has been reduced to 15.5 feet.

19. The University's recent transfer of majority sponsorship of the George Washington University Health Plan, Inc. to American Medical International, Inc. will not change the existing contractual relationship between the G.W. Health Plan and the University. The employees in the Burns Building and the proposed addition will all be University employees. The building will be owned, operated and controlled by the University. The relationship between physician, student and patient will not change. Doctors and staff serving the G.W. Health Plan will continue to be employees of the University's Department of Health Care Sciences of the School of Medicine.

20. Paragraph 3101.46 of the Zoning Regulations provides that a college or university which is an academic institution of higher learning, including a college or university hospital, dormitory, fraternity or sorority house proposed to be located on the campus of a college or university, is permitted as a special exception in a residential district provided that:

- A. Such use is so located that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions;
- B. In R-5-C and R-5-D Districts, the maximum bulk requirements normally applicable in such districts may be increased for specific buildings or structures provided the total bulk of all buildings and structures on the campus shall not exceed the gross floor area prescribed for the R-5-C District;
- C. The applicant shall submit to the Board 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 buildings, parking and loading facilities, screening, signs, streets, and public utility facilities, and a description of all activities conducted or to be conducted therein, and of the capacity of all present and proposed campus development;
- D. Within a reasonable distance of the college or university campus, the Board may also permit the interim use of land or improved property with any use which the Board may determine is a proper college or university function; and
- E. Before taking final action on an application for such use, the Board shall have submitted the application to the District of Columbia Office of Planning and District of Columbia Department of Public Works for review and report.

21. Under Sub-section 8207.2, pursuant to authority contained in the Zoning Act of June 20, 1938 (52 Stat. 797), as amended, the Board is authorized to grant special exceptions as provided in the preceding articles of these regulations where in the judgment of the Board such special exceptions 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 said zoning regulations and maps.

22. The George Washington University Campus Plan was approved by the Board under BZA Order No. 10403, dated December 22, 1970. The Plan provides flexibility through emphasis on general policies for the location and character of proposed buildings. The Plan consists of the following documents contained in the file of BZA Application No. 10403:

- A. Text material and supplement designated as Exhibits 10 and 11;
- B. Functional Areas, Illustrative Site and Staging Plans, respectively designated as Exhibits 2b, 2c, and 2d; and
- C. Four additional maps submitted May 26, 1970, after National Capital Planning Commission review entitled Identification of Existing Buildings, Vehicular Circulation Plan, Landscape Treatment Plan and Land Use Plan.

The applicant has adopted as its official plan, a plan report entitled, "A Revised Campus Plan for George Washington University" dated August, 1970. This plan report is a slightly revised version of the approved Campus Plan but is identical for purposes of considering the subject site.

23. The proposed addition is located within an area of the approved campus plan designated "Medical School/Hospital". Further, the Illustrative Site Plan shows this site for an extended medical care center. Ambulatory care services are similar to the intent of the Illustrative Site Plan. Emphasis on short hospital stays has replaced the extended medical care centers. Thus, the spirit of flexibility provided in the plan fits well with the proposed use. The Board notes that, as stated in the approved plan:

The Campus Plan must, like a city plan, be expressed in terms of policies. A plan only in terms of specific building projects would be of limited value; precise needs for the projects to be built in the more distant future cannot be specified, but these projects must be anticipated in general terms if the long-range campus pattern is to be a rational and workable one. Therefore, the campus plan itself is in terms of locational and design policies.

The Board finds that the proposed addition is consistent with what is shown on the approved campus master plan. The proposed use conforms to the "Medical School/Hospital" designation.

24. BZA Order No. 13350, issued December 22, 1980, approved the continued use of 1229 25th Street, N.W. as the location of the applicant's Department of Health Care Sciences. The Board granted the continuation for a period of five years but dictated that the applicant find permanent space on the campus for the use within the five year time period. The present application is consistent with the mandate.

25. The hours of operation of the facility will be from 7:00 A.M. to 8:00 P.M. Monday through Friday and also some hours on Saturday.

26. Approximately 75 percent of the proposed facility will be used by functions at nine different locations presently utilizing 107,000 square feet of space. The addition will allow for some vitally needed expansion. There will also be a modest increase in the number of patient visits.

27. Dr. L. Thompson Bowles, Dean for Academic Affairs and Professor of Surgery at the George Washington University Medical Center, testified that the School of Medicine and Health Science is responsible for the education of over 600 medical students, 300 allied health students and nearly 400 medical residents. In addition, the Medical Center conducts a large research program involving a significant number of projects funded by the National Institutes of Health, the National Science Foundation and the National Academy of Sciences. These academic activities are major missions of the medical school, the hospital, the Burns Building and the medical faculty practice.

28. Dr. Bowles testified that the existing Burns Building was overcrowded and does not allow an efficient medical practice or optimal conduct of academic functions. The lack of on-campus space forced the University to locate the Department of Health Care Sciences off-campus in leased space. The proposed addition will bring the Department back on campus so as to integrate health services. No other location exists on the campus that would permit the University to make the move without being prohibitively expensive. Utilization of the existing Burns Building will save the University approximately \$19 million. Not all faculty requested programs will be able to be accommodated in the addition due to space limitations.

29. Dr. Bowles testified that the proposed addition is essential to the academic mission of the University for the University to keep pace in the field of medical education. As the emphasis in health care shifts from the in-patient to the out-patient setting, the University must shift the focus of its medical student and resident education. The new facility will enable students to learn by increased

utilization of more complex care in the ambulatory setting. Diagnostic facilities, examination rooms, procedure rooms and educational support area have been included in the addition and are an integral part of the training experience needed by the students. A modern facility at a central location will provide student physicians with an appropriate educational setting.

30. Dr. Bowles stated that consolidation of the ambulatory care services offers the community a convenient, one-stop, comprehensive, out-patient facility. It will also increase the efficiency of the delivery of health care and minimize the duplication of costly functions. Students will learn about out-patient services in a modern facility. Health care services at a single location will allow the University to distribute patient flow thereby diminishing the impact of traffic generated during peak hours.

31. The existing health program is inefficient because of its decentralization. Patients, many of whom are elderly, must make trips between the hospital and the Burns Building to the Department of Health Care Sciences located on 25th Street. The proposed addition will allow patients to get all the care they need at a single site.

32. Avery Faulkner, senior partner with the Cannon Faulkner Partnership, testified on behalf of the applicant as the project architect. His firm specializes in the design of health care buildings. Mr. Faulkner stated that the addition was designed to harmonize and be compatible with surrounding structures.

33. The project architect testified that the addition had been sized at a functional minimum. Further, he testified that it was essential to have the various functions at a single location. The uses must be coordinated with functions in both the Burns Building and the Hospital. The project architect described the task of interrelating the functions as a "three dimensional puzzle." The addition must be cross-spliced with existing functions that are trying to be preserved in the Burns Buildings for cost reasons while being cross-spliced a second time across the street with existing elevations of the Hospital. Finally, there are certain sequential functions within the addition that must be configured in a certain manner for the clinical operation to work for the physicians.

34. The lot occupancy of the subject site with the addition is 92 percent in the C-3-C portion and approximately 75 percent in the R-5-C portion. The height of the addition is 90 feet as measured from Pennsylvania Avenue and therefore is approximately 35 feet lower than the existing Burns Building.

35. Landscaping will be provided in a coordinated fashion with the University's overall campus landscape plan and the City's requirements for types, sizes and location of plant material.

36. The project architect testified that the three lowest levels of the addition will be devoted to parking. The basement floor will house the diagnostic support facilities. The ground floor plan at the Eye Street level includes the entrance to the parking ramp and a driveway to the lobby entrance for patient access and convenience. This floor also contains the lobby, the pediatric clinic and the pharmaceutical support area. The first floor will have ambulatory surgery on the east side and house the loading dock area on the north side. The second floor will provide clinical exam space as well as spaces for medical education. The ground, first and second floors have higher ceilings due to the specialized nature of the particular use. The third floor through seventh floor will contain cardiology, adult care, internal medicine, 10 specialty clinics, OB/GYN, surgery, obstetrics, gynecology, dermatology and out-patient rehabilitation. All of the floors have been carefully aligned and connected to the adjacent services in the existing Burns Building through the use of ramps.

37. The mechanical penthouse of the proposed addition under either Scheme is within the 0.37 FAR allowance and the 18.5 foot height limit. The penthouse will house critical major mechanical equipment for the addition as well as the emergency power and the central cooling tower and associated equipment for the complex. The equipment must be located on top of the addition due to the height and structural limitations on the existing Burns Building.

38. The penthouse is set back from the property line a distance equal to its height on the Pennsylvania Avenue, 22nd Street and Eye Street sides. A special exception is required for the roof structure setback on the east side of the addition under either Scheme. The narrow shape of the lot prohibits full compliance with normal setback requirements. The size of the penthouse has been reduced to the minimum size required to house the special mechanical equipment and elevator equipment required for a medical-clinical building.

39. A second special exception is necessary for the addition since it will have separate roof structure from the Burns Building located at a different roof level. There would be physical and operating difficulties in providing a single penthouse since the addition is four stories lower than the existing building.

40. The project architect testified that he prepared a sunlight and air study to show the effect of the addition on

the President Condominium. When Scheme 1 is compared to a matter-of-right structure in the R-5-C District that could be constructed on the eastern property line to a height of 80 feet, there is no material difference in shade or shadow. Scheme 2, since it is set back 21 feet at its nearest point and 36 feet generally from the condominium, provides a separation between the buildings that allows for greater entry of light and air. Further, a portion of the penthouse has been sloped from the eastern lot line back to the main penthouse structure to provide additional light and air. Scheme 2 provides substantially more light and air than a building that could be built as a matter-of-right upon the subject property.

41. The project architect's description of the comparison between Scheme 1 and Scheme 2 showed the location of the entrance ramp to the garage to be at the identical location. In Scheme 1, the ramp is essentially under the building as the building abuts the property line. In Scheme 2, because of the separation between the buildings, approximately 45 feet of the entrance ramp is uncovered before the ramp enters below the building. The ramp could not continue to be covered since it would cause the building to exceed the lot occupancy restriction. The design of the ramp entrance allows cars to freely enter the garage with noise levels approximately those of the surrounding streets. Automobiles leaving the garage ascending the slope arrive at the street at a flat plateau and generate noise levels comparable to the surrounding streets. There would be a total of 90 trips per peak hour.

42. While the creation of a 21 foot wide minimum separation improves the light, air and ventilation for the President Condominium, it necessitates the applicant to seek two area variances. No court yard is required for the addition, but if one is provided it must be 29 feet in width pursuant to Sub-section 3306.1 of the Regulations. By creating a noncomplying court, a variance is also required from the existing nonconforming structure (Paragraph 7205.12).

43. The project architect testified that the actual distance where the court yard occurs on the Condominium lot in Scheme 2 between the proposed addition and the President Condominium is approximately 34 feet while the zoning requirement if the two buildings were located on a single record lot would be approximately 24 feet. A variance is required due to the property line dividing the two structures.

44. Strict application of the Zoning Regulations in this instance for Scheme 2 would produce a result that would be contrary to the intent of the Regulations which is to maximize light and air. A variance is warranted to allow an

applicant to implement a better plan that relieves him of the practical difficulties of compliance with the Regulations.

45. Edwin W. Knowles, Jr. and Douglas A. Farber, health care planners from the health care firm of Hamilton Associates, testified on behalf of the applicant. The firm was engaged by the University in February, 1984, to coordinate the centralization of the health care program. The planners testified that the health care industry is rapidly changing in the direction of providing more ambulatory care with increased efficiency and effectiveness. Teaching hospitals, such as the University, must teach the current technology and developments in the ambulatory field. The federal government has identified this need and has passed legislation requiring teaching facilities to provide ambulatory care.

46. The health care planners conducted an extensive analysis of the facilities and programs at the University. In 1985, there will be approximately 148,000 patient visits. By 1989, there will increase by approximately 15.7 percent to 170,000. The increase in visits will be partially a result of the new services that will be offered in the addition. There are numerous deficiencies in the facilities at present that the addition will correct.

47. The proposed addition will centralize the existing programs conducted at nine different locations presently occupying approximately 107,000 square feet of space. New services will add 20,000 additional square feet. There will also be an incremental increase of space to correct existing deficiencies of approximately 14,600 square feet. Thus, the total amount of programmable space is about 142,000 square feet. The health care planners originally recommended that the addition have 180,000 square feet to serve the programs. This was reduced by approximately 20 percent to comply with zoning requirements. Further reductions will materially affect the quality of the program.

48. The use of the proposed addition will not generate objectionable noise. The use itself is not a noise intensive use. The building design will utilize materials which will insulate internal operations from the surrounding properties. The three levels of the garage will be completely enclosed to attenuate the sound from vehicles within the garage. Noise emanating from the garage will be less than the ambient noise on Eye Street. Overall, the Board finds that noise from the addition will be less than presently generated by the vehicles using the surface parking lot. Further, noise generating equipment on the roof will be located above the roof line of the Condominium. The emergency generator will be located on the west side of the addition away from the Condominium. Cooling towers will

be shielded and will direct noise to the sky. Noise levels will be similar with those created by the through-the-wall air conditioning units in the Condominium.

49. The proposed addition will have a three level parking garage with a capacity for approximately 140 full-size automobiles. Ingress and egress to the garage will be from Eye Street. The ticket entry gate to the garage will be located on a ramp a minimum of 170 feet from the south face of the building at the property line. This will allow rapid access into the building and prevent queuing on Eye Street. The garage will have full handicapped access from every level to the elevator bank and into the building.

50. The approved Campus Master Plan requires the applicant to provide 2700 to 3000 parking spaces. The total number of spaces provided if the proposed addition is constructed would be 2863. The Board finds that the number of parking spaces is within the range of spaces required pursuant to the Plan.

51. Ambulatory care faculty and staff presently on campus, housed mostly in the Burns Building and the Hospital, utilize 141 of the University's existing parking spaces. The University's traffic consultant estimates that the requirement for parking will increase to 188 by 1990. This increase includes faculty and staff being relocated from the 25th Street Department of Health Care Sciences facility.

52. The Burns Building presently has an average of 663 daily patient visits. Upon completion of the addition, the number of visits will increase to 1,076 by 1990, due chiefly to the transfer from the 25th Street HMO facility and also allowing for a modest amount of growth.

53. Ample parking spaces exist elsewhere on the campus to meet present and future demand. Faculty, staff and patients will therefore, have the use of other University parking facilities. Of the total campus inventory during the peak occupancy time period, five percent of these spaces, approximately 135, are commercial lots. The Board finds that the University will provide adequate off-street parking.

54. Loading dock facilities will be located on the eastern side of the addition and will operate off of an existing public alley. One 20 foot deep bay and one 30 foot deep bay will be provided. The loading docks will be shielded visibly and audibly from adjacent residential properties. There will be approximately 20 van deliveries per day utilizing the public alley system. Large bulk deliveries will continue to be made at the School of

Medicine which is located two blocks west of the subject site. The Board finds that adequate loading facilities exist to service the proposed addition.

55. A trash compactor will be located adjacent to the loading dock. It will be a small, self-contained eight cubic yard compactor. This area will be shielded visually from the President Condominium. The compactor will replace the one that currently exists on the site. There will not be an increase in noise over existing conditions.

56. John F. Callow, President of Callow Associates, appeared on behalf of the applicant as a traffic, transportation and environment consultant. Mr. Callow evaluated the existing conditions and prepared an assessment of the development. His findings indicate that existing traffic volumes will not change as a result of the addition and that adjacent intersections at 21st Street and Eye Street and 22nd Street and Eye Street operate at level of Service A, and that the intersection of 22nd Street and Pennsylvania Avenue operates at level of Service C. The addition will produce increased efficiency by increasing the hours of operation and spreading the patient visit load throughout the day rather than concentrating the visits in the morning. Approximately 20 percent of the patients will arrive prior to 10:00 A.M. in the new facility versus the present figure of 46 percent.

57. The transportation expert testified that the distribution of traffic will be favorable. Traffic that is destined for the numerous health care locations will now go to a single location that is very convenient to the metro subway station. Centralizing the staff will also increase carpooling opportunities. Duplication of trips to separate facilities will be eliminated. The Board finds that the proposed addition will not create objectionable traffic conditions.

58. Based upon a study made by the University's health planners, the existing Burns Building presently has approximately 394 full-time equivalent (FTE) faculty and staff persons. The total medical center faculty and staff related to ambulatory care, including the Department of Health Care Sciences facility on 25th Street, is approximately 588. The projected FTE's for the Burns Building and the addition is approximately 694. Therefore, there will be an overall increase of approximately 106 FTE's related to ambulatory care.

59. The number of trips generated by the faculty and staff is higher than the actual number of FTE's since a FTE may work at more than one location during a single day. There are presently 476 faculty and staff trip generators on the campus, most of whom work in the Burns Building. The

total number of ambulatory care-medical center trips is 597. The projected number of staff trips for the project after all of the ambulatory services have been consolidated will be 647. This is an increase in traffic to the on-campus facilities of 171 but only an overall increase to the medical center of 50.

60. The proposed addition will not increase the number of students.

61. The proposed addition, when added to existing buildings on campus, will not exceed the FAR prescribed for buildings within the campus. The maximum allowable floor area ratio for a university is a composite of all sites shown in the plan with their respective zoning. The bulk for residentially zoned areas of a university is governed by Section 301.462 of the Zoning Regulations. This figure is combined with the permitted FAR for nonresidentially zoned areas, as dictated by the zoning requirements for each particular zone, to achieve an aggregate FAR for overall campus development. The University's current FAR is 2.16. The proposed addition of 120,951 square feet for Scheme 1 or 121,951 square feet for Scheme 2 will increase the total FAR to approximately 2.24 which is well below the maximum aggregate permitted FAR of 3.6.

62. The applicant is not requesting any interim use of land in this application.

63. Construction of the proposed addition will provide employment opportunities for approximately 150 to 200 workers. When completed, the new complex will provide new job opportunities for approximately 20 people.

64. The University has committed to award 35 percent of the construction contracts to certified minority businesses in conjunction with the Minority Business Opportunity Commission.

65. The Department of Public Works (DPW), by memoranda dated February 20 and June 19, 1985, and through testimony at the public hearing, found that, from a transportation point of view, the proposed addition under either scheme would have a negligible impact on the adjacent street system. DPW estimates that the addition would generate between 100 and 120 vehicle trips during its peak activity period but that this peak period would not coincide with the peak hours on the surrounding streets. The level of parking to be provided would be more than adequate to accommodate future activity at the complex. The proposed number of parking spaces on campus would be 2,863 if the addition is constructed. This figure is in conformance with approved campus plan requirement of between 2,700 and 3,000 spaces. The Board concurs with the findings of DPW.

66. DPW found that the intersection of Eye and 22nd Streets operates at level of Service A. Vehicular and pedestrian trips generated by this project during its peak activity would not affect the existing level of service. The Board so finds.

67. In regard to the vehicular/pedestrian conflict on Eye Street resulting from the location of the garage entrance on that street, DPW found that auto drivers and auto passengers who park on-site would use the elevator inside the garage to reach their destination and, therefore, would not be on the sidewalk. In addition, to further minimize vehicular/pedestrian conflict in the vicinity of the project, DPW is presently reviewing a request by the University to lease air space for a pedestrian bridge across 22nd Street between Eye Street and Pennsylvania Avenue. This connection, however, is not part of this application.

68. The Office of Planning filed three memoranda on this application and participated through a representative at the public hearings. The first memorandum, dated February 20, 1985, recommended approval of the application based upon OP's review of Scheme 1 only. OP found the addition to be consistent with the approved Campus Plan and within the permitted bulk for the University. OP found that noise from the project would be minimal but requested the applicant to address further the noise emanating from the roof structure. The project architect addressed this issue to OP's satisfaction by submitting a memorandum into the record. OP concurred with the analysis prepared by the applicant's transportation consultant. OP found that the addition would not result in an increase in the student body. With respect to the two roof structure special expectations, OP found that strict compliance with Sub-section 3308.2 appears to be unduly restrictive, prohibitively costly or unreasonable. Overall, OP was of the opinion at the time of the report, that the proposed addition to the Burns Building would be in harmony with the general purpose and intent of the Zoning Regulations and would not tend to affect adversely the use of neighboring property.

69. Office of Planning's second memorandum, dated May 1, 1985, superseded the first memorandum. OP met with members of the opposition concerning the light and air issue. OP then suggested to the applicant that it re-examine the design of the addition in order to address the opposition's concerns. The applicant complied with this request by preparing a sketch plan that later became Scheme 2. Although it required variances, OP found the revised plan to be superior to Scheme 1. At that time, however, Scheme 2 was not before the Board and OP could not officially comment on the plan. Subsequent to the filing of the second memorandum, the applicant filed Scheme 2 with the Board as an alternative to Scheme 1.

70. Office of Planning's final memorandum, dated June 19, 1985, considered both Scheme 1 and Scheme 2. OP's recommendation was that the applicant and the opposition continue to work toward an alternative solution that responds to both party's needs and concerns. Nevertheless, OP addressed the criteria for the requested relief. OP found both schemes to be consistent with the approved Campus Plan. The proposed addition is located within the area of the campus designated "Medical School/Hospital" in the approved plan. The proposed use as an ambulatory care center is not the precise use indicated in the plan but OP noted that a campus plan serves as a guide and that the proposed use bears a relationship to the medical complex and is appropriate.

71. With respect to light and air, OP was of the opinion that Scheme 2, by pulling the eastern wall of the back approximately 21 feet from the eastern property line, ameliorates the impact of the addition upon the light and air of units on the west side of the President Condominium. The OP was of the opinion that Scheme 1 was an unacceptable alternative.

72. The Office of Planning concurred with DPW and the applicant's transportation consultant that Eye Street is the most acceptable location for the garage entrance. Given the narrow width of the site, a 22nd Street entrance would not be feasible.

73. The Office of Planning noted that DPW found the level of parking under either scheme to be more than adequate to accommodate future activities at the complex. Also, the parking requirement must be viewed in terms of the overall level of University parking mandated by the approved campus master plan. The approved plan requires 2,700-3,000 parking spaces. The University currently provides 2,746 spaces. The total number of spaces provided on campus if the addition is constructed will be 2,833.

74. With respect to the roof structure relief, OP reported that Scheme 2 was a distinct improvement over Scheme 1. OP concurred with the applicant concerning the need for relief from the single enclosure and enclosing walls of equal height requirements. First, the elevators within the Burns Building are incapable of servicing the volume of people expected to utilize the new medical complex. This fact compels inclusion of separate elevator service in the proposed addition. However, since the Burns Building mechanical equipment is neither designed nor sited to service an additional structure, the proposed addition requires its own mechanical system. Given the need for additional mechanical equipment, construction of a single roof enclosure is structurally infeasible, if not unreasonable. There is a 34 foot height differential

between the Burns Building and the proposed addition. The alternative of raising the enclosing walls of the proposed addition's roof structure to the same height as the Burns' Building roof structure, would be costly and unattractive and significantly detract from light and air. Further, it would require additional zoning relief from the height limitation for a roof structure. The Board concurs with the Office of Planning's findings pertaining to the roof structure relief.

75. Under Scheme 2, two variances are required: a variance from the open court width requirements and a variance from the prohibition against making an addition to an existing nonconforming structure that creates a new nonconformity. OP reported that there is a sufficient basis for the granting of the requested variances, especially since the open court will provide additional light and air to the President Condominium. Practical difficulties exist for the applicant due to the site's long and narrow configuration, the location of the existing structure, the Burns Building on the site, and the applicability of an approved campus plan which precludes matter of right development. The Board so concurs.

76. Advisory Neighborhood Commission 2A filed four resolutions with the Board. ANC 2A opposed both Schemes 1 and 2 of the proposed addition. The ANC believed the proposed addition in either form is too large in terms of height and bulk for the site and adversely impacts the light and air of residential units located on the west side of the President Condominium. The ANC also objected to the Eye Street location of the entrance to the underground garage. The ANC maintained that the location of the garage entrance immediately adjacent to the west wall of the President Condominium and its close proximity to other GWU garage entrances would generate an unsupportable level of congestion and noise. The Board will address below the issues and concerns of the ANC since the Board does not concur with the ANC recommendation.

77. In presenting its case, the intervenors acknowledged that they do not oppose construction of a building on the proposed site that conforms to the height, density (3.5 FAR), lot occupancy, and other requirements normally applicable in an R-5-C District and that is designed and sited to minimize adverse impacts on The President Condominium.

78. Intervenors argued that the permissible floor area ratio in an R-5-C District is 3.5 FAR (Sub-section 3302.1). GWU's proposed addition significantly exceeds 3.5 FAR. GWU relies on Section 3101.462 of the Zoning Regulations for authority to exceed the 3.5 FAR otherwise applicable to the site of the proposed addition. GWU asserts that, with

construction of the proposed addition, the overall floor area ratio of university buildings within residential districts on the campus will remain below 3.5 FAR.

79. The Board finds that the issue of the FAR is not properly before the Board in the subject application. The intervenors in Appeal Nos. 14287 and 14344, raised that issue, among others. The Board denied both appeals on July 10, 1985 and November 6, 1985, respectively. (Final Orders are yet to issue). The intervenors, the appellants therein, pursued the proper remedy. No appeal from the determination of the Zoning Administrator in the subject application was taken.

THE ARGUMENTS OF THE INTERVENORS ARE SET FORTH BELOW IN PARAGRAPHS 80 THROUGH 115.

80. The intervenors established that GWU's proposed addition is on the west side of the President Condominium. The main roof of the President Condominium is 75 feet above I Street. The eastern wall of the proposed addition is 119 feet high (including penthouse) and rises 41 feet above the roof of The President Condominium. That wall faces the living room windows of 48 residential units in The President Condominium, which have no other source of light, air, and view.

81. In the Scheme 1 design, the 119 foot high eastern wall of the proposed addition is within 15 feet of the living room windows of 32 of the units on the west side of the President Condominium. In Scheme 2 the 119 foot high eastern wall is 36 feet from those living room windows. Because of the height of the proposed addition and the fact that the addition extends farther south in Scheme 2, the effect of Scheme 2 on light, air, and view is essentially the same as Scheme 1.

82. The University's proposed addition leaves residents on the west side of the President living in a narrow hole 119 feet deep. Intervenors presented sunlight studies that demonstrated that the proposed addition will cut off all light to the residences on the west side of The President Condominium at all seasons of the year. An architect testified for the Intervenors that GWU's proposed addition will dramatically reduce the light and air of residential units on the west side of The President Condominium.

83. The University's proposed addition is approximately three times the size of The President Condominium. The addition looms over, and is completely out of scale with, the adjacent residential condominium. GWU's architect testified that he designed the proposed addition to be compatible with the scale of a parking garage located on 22nd Street southwest of the proposed site.

84. In Scheme 2, part of the eastern wall of the proposed addition is set back an additional 21 feet from the

west side of The President Condominium. That 21 feet of space is occupied by the ramp for the parking garage of the proposed addition. That design will subject the residential units on the west side of The President Condominium to the noise and fumes generated by traffic on the parking ramp.

85. The Board of Directors of The President Condominium Association voted to oppose GWU's proposed addition (Scheme 1 and Scheme 2) because the addition will substantially impair the light, air, and view of residents in the President Condominium and will cause pedestrian hazards and aggravate traffic and parking problems. Eighty-one owners and residents of The President Condominium signed a petition opposing the proposed addition on grounds that its height and size, roof structure, parking ramp and driveway adversely affect The President Condominium. Numerous owners and residents filed individual letters with the Board opposing the proposed addition on similar grounds.

86. Intervenors introduced a scale model of the Burns building, the proposed addition (Scheme 1 and Scheme 2, unamended), and The President Condominium. The model shows clearly that the height, size, and location of the proposed addition (Scheme 1 and Scheme 2) has an impact on the light, air and view of 48 residential units on the west side of The President Condominium.

87. Intervenors argued further that GWU's proposed addition is not consistent with other aspects of the campus plan. GWU's approved campus plan includes an "Illustrative Site Plan" which the campus plan describes as follows:

The illustrative site plan has been prepared to indicate the proposed future relationship of buildings to each other and to open space and circulation systems. Heights and bulks shown on the plan have been scaled to show the general dimensions of buildings, as required by the space program; they do not show design details (emphasis added). The proposed open space system will provide for many purposes at the same time: pedestrian circulation, spaces for lounging and informal gatherings, provision of light and air in an around buildings, and esthetic effects (emphasis added).

GWU's proposed addition eliminates all space, light and air on the west side of The President Condominium. Thus, the proposed addition to the Burns building violated the design standards established by the approved campus plan.

88. The BZA Order approving the campus plan recognizes that University construction should be compatible with surrounding properties:

The objective of the Campus Plan is to guide the University's building programs into a pattern which will... be compatible with the goals and standards of the surrounding community.

In Case No. 13966, involving approval of GWU's support building at 2007-2029 F Street, N.W., the Board recognized that the scale and mass of buildings constructed by GWU should be compatible with adjacent residential structures:

The structure [support building] will be architecturally designed to be compatible with adjacent and nearby buildings. The structure will relate in scale and massing with the adjacent [non-university residential] townhouse structures and will present a coherent facade to the neighborhood along the north side of F Street.

In the subject case, GWU's architect testified that he designed the proposed addition to the Burns building to be compatible with the scale of a parking garage located on the west side of 22nd Street south of I Street.

89. The campus plan provides that buildings in Phase I of the campus construction program will use the exception to density requirements authorized in Section 3101.462 of the Zoning Regulations (File No. 10403, Ex. 10). However, the campus plan provides that "Building in Phases II and III will be designed to comply with current zoning bulk restrictions" (Id.). Thus, under the approved campus plan, the proposed addition (which is in Phase III of the construction program) is not eligible for the exception in Section 3101.462 and cannot exceed 3.5 FAR.

90. George Washington University's campus plan provides:

The campus will be built at, or near, the highest densities permitted by the zoning ordinance. ...Densities will, however, be appreciably lower than those of business areas to the north and east.

The business area to the north of the campus is a C-3-C District with maximum permissible FAR of 6.5. The FAR of GWU's proposed addition is not appreciably lower than the business area north of the campus.

91. George Washington University's campus plan recognizes that locations for particular buildings and uses are flexible:

The Campus must be expressive of a continuous process. Although the plan is expressed in terms

of a series of three major phases, it is designed to accommodate changes in the future. Thus while the highest priority improvements are designated in some detail, projects for accomplishment in the more distant future are in more general terms.

Because of the high density of the campus and its restricted extent, certain amount of flexibility exists in the location of different activities: no point on the campus is more than ten minutes walk from any other.

The Campus Plan must, like a city plan, be expressed in terms of policies. ... [T]he campus plan itself is in terms of location and design policies. These include the designation of specific locations for first-priority improvements and more general locations for later projects.

In Order No. 13966 (para. 11), dated December 30, 1983, the Board noted that "The [Campus] Plan provides flexibility through emphasis on general policies for the location and character of proposed buildings."

92. The site of GWU's proposed addition is on the east side of the University hospital. The University has a viable alternative site in Square 40 on the west side of the hospital.

93. Square 40 is bounded by 23rd Street, Washington Circle, New Hampshire Avenue, and the GWU medical school and is within the campus area designated for medical use. Square 40 is wholly owned by GWU, comprises 95,000 square feet, and is currently occupied by a parking lot.

94. In the past, GWU has designated Square 40 as a viable site for the medical clinic functions now proposed for the addition to the Burns building. The campus plan identifies Square 40 as the site for the University clinic.

95. Intervenors argued that the traffic and parking impacts of GWU's proposed addition are the same for Scheme 1 and Scheme 2.

96. The University presented testimony by John F. Callow, a traffic consultant for the University, and a report by Mr. Callow on the traffic and parking impacts of the proposed addition. Mr. Callow concluded that "Overall the impact of the addition [on traffic and parking] will be favorable."

97. Intervenors presented testimony and a report by Mr. Algis A. Lukas, a qualified transportation engineer. Mr. Callow's report states:

When placed in service, the new complex will house about 476 staff persons consisting of those now in the Burns Building and those relocated to the new building, principally from the BNA. This staff level will grow to 647 by 1990. The initial typical daily visitor and patient level using the services in the Burns Building complex will be 663. By 1990, visitor and patient levels are expected to reach 1,076 on a typical weekday.

Mr. Callow obtained those figures from the University's health planning consultants. Mr. Callow testified that, contrary to the statement in his report, 476 is the number of staff currently employed in the Burns Building and other on-campus facilities that will locate in the proposed addition, and 647 is the number of staff employed in the entire facility (Burns building plus addition) after staff currently employed at off-campus locations, including the BNA building, relocate to the proposed addition. Similarly, 663 is the number of patients currently served at on-campus facilities, and 1,076 is the number of projected patients after off-campus facilities are transferred to the proposed addition. Mr. Knowles, one of GWU's health planning consultants, testified that 476 and 647 are trips, not employees. Mr. Callow later testified that 476 is the number of existing employees at the Burns building. Mr. Knowles provided data on full time equivalent employees (FTE's) but emphasized that such data cannot be correlated to trips or traffic.

98. Despite a specific request from a member of the Board, none of GWU's witnesses could state the number of staff currently employed at the Burns building and at each of the facilities (at nine other locations) that will be consolidated into the proposed addition nor the number of patients currently served at the Burns building and at each of the other locations.

99. The University's traffic consultant concluded that the level of service will remain at acceptable levels on the streets in the vicinity of the proposed addition. Level of service indicators address only street capacity and traffic volume. Such indicators do not address traffic congestion or pedestrian traffic.

100. The ambulatory care facilities in the proposed addition will operate before and after normal working hours and on weekends. There will be more patients served during those hours than are currently served at the Burns building during those hours.

101. There are 53 parking spaces currently on the site of the proposed addition. The parking garage in the

proposed addition will have 140 spaces, a net increase of 87 spaces over existing conditions.

102. Mr. Lukas expressed the opinion, based on GWU's projections of employees and patients, that the proposed addition provides insufficient parking for the demand that the Burns complex will generate.

103. The number and pattern of trips to and from the parking garage is significantly affected by the type of user, i.e., whether the garage is used solely by employees, solely by visitor/patients, or by some mix of users. GWU's traffic consultant did not know how many of the 140 parking spaces in the proposed addition are allocated for staff and how many for patients/visitors.

104. Further argument advanced by the intervenors was that there are several residential buildings on I Street in the vicinity of the proposed addition, and I Street carries a significant amount of pedestrian traffic. Mr. Lukas expressed the opinion that the amount of traffic on I Street generated by the proposed addition will not be compatible with the residential uses on the street nor with the strong pedestrian orientation of the street.

105. Intervenors asserted that the parking ramp (entrance/exit) for the proposed addition abuts The President Condominium, and the driveway is adjacent to the parking ramp. The driveway is 40 feet from the intersection of 22nd and I Streets and the parking ramp is 60 feet from the intersection.

106. The location of the parking ramp and driveway will concentrate the traffic generated by the proposed addition into the area immediately adjacent to The President Condominium, thereby subjecting the residents to traffic noise and fumes.

107. Location of the parking ramp and driveway of the proposed addition on I Street will cause all traffic destined for the addition to cross the sidewalk on I Street, thereby creating significant hazards for the substantial pedestrian traffic on I Street, including residents of The President Condominium.

108. The location of the parking ramp and driveway on I Street also will cause traffic congestion because of conflicting traffic movements. Mr. Callow estimates that seventy percent of the vehicular traffic to the proposed addition will arrive from the south. All of that traffic will enter the 2100 block of I Street from the west and attempt to turn left into the parking ramp or driveway of the proposed addition. Such left turns will be impeded by westbound traffic on I Street as well as substantial

pedestrian traffic on the sidewalk crossing the parking ramp and driveway. Because the driveway and parking ramp are located close to the intersection, queuing of only a few cars waiting to turn into the addition will back up into 22nd Street.

109. Intervenors object to location of the proposed parking ramp and driveway on I Street adjacent to the President Condominium because of the noise and fumes generated by the traffic, pedestrian hazards created on I Street, and traffic congestion. Intervenors suggest that the parking ramp and driveway should be located on 22nd Street. Mr. Lukas testified that 22nd Street is a preferable location for the parking ramp and driveway because that location will reduce the traffic impact on I Street, reduce pedestrian hazards, and avoid traffic congestion. The entrance/exit for the existing parking lot on the site of the proposed addition is on 22nd Street. GWU's approved campus plan shows the entrance for the building on this site on 22nd Street.

110. As to the roof structure, intervenors argued that GWU's plans for the proposed addition include a separate roof structure for the addition. Scheme 1 and Scheme 2 do not comply with the requirement that all roof structures be placed in a single enclosure with walls of equal height. In Scheme 1, the proposed roof structure does not meet the setback requirements on the east side of the addition facing The President Condominium. The location of the proposed roof structure on the edge of the main roof (in both Scheme 1 and Scheme 2) contributes to the excessive height of the proposed addition and the elimination of light, air, and view for the residential units on the west side of The President Condominium. The proposed roof structure (Scheme 1 and Scheme 2) will adversely affect the light and air of an adjacent residential building within the meaning of Section 3308.2 of the Zoning Regulations.

111. As to the issue of the open court, intervenors reported that Scheme 2 includes an open court between GWU's proposed addition and The President Condominium, which is not included in Scheme 1. Section 3306.1 of the Zoning Regulations requires a width of 29 feet for the open court shown on Scheme 2, but the Scheme 2 design includes only a 21 foot width.

112. The existing Burns building is located at 22nd Street and Pennsylvania Avenue and does not affect construction on the site of the proposed addition, all of which lies south of the Burns building.

113. While the proposed site is narrow at the north adjoining the Burns building, the south end of the site at the location of the open court is 82 feet wide.

114. The width of the south end of the proposed addition (Scheme 2) is 60 feet 11 inches. Providing an additional 8 feet for the open court reduces that width to 52 feet 11 inches. A building of that width is not unusable.

115. There is no extraordinary or exceptional situation or condition that affects the site of the proposed addition, and there are no peculiar and exceptional practical difficulties that precludes GWU from meeting the required open court width.

116. At the September 4, 1985, public meeting of the Board, a motion to approve Scheme 2 was deadlocked 2 to 2, failing for lack of a majority vote. The Board deferred final action on the application until the fifth member of the Board, who had not previously participated in the proceedings, had an opportunity to read the transcript, review the record and participate in the decision. On September 18, 1985, the Board conducted a special public meeting where it was determined that the fifth Board member would not participate in the case. On its own motion, the Board decided to reopen the record and conduct a further hearing. Specifically, the record was reopened to permit the parties to respond to the following issue:

Modification to the plans of Scheme 2 addressing possible adverse impacts on the adjoining property, the President Condominium, created by the location and design of the entrance to the parking garage such as vehicular noise, fumes and traffic problems.

A further hearing was scheduled for October 16, 1985.

117. Intervenor James T. Draude, joined by the President Condominium Association, filed a "Motion to Strike Hearing and for Reconsideration of the Board's Decision to Limit the Hearing to the Single Issue Selected by the Applicant" on October 15, 1985. Advisory Neighborhood Commission 2A also filed a similar request. The Intervenor's motion alleged that under the circumstances of this case where only four Board members could participate, the Board's 2 to 2 vote constituted a denial of the application. The motion also alleged that the applicant had requested that the record be reopened and that the further hearing was limited to an issue designated by the applicant. Finally, intervenors argued that any revision to the plans for Scheme 2 should be accomplished by filing a separate application. As a preliminary matter to the October 16, 1985, further hearing, the Board considered and denied the motion.

118. In denying the motion, the Board found that the 2 to 2 vote on the motion to approve Scheme 2 did not result

in a denial of the application since, at that time, there was a fifth Board member who was available to participate. The Board also found that the Board's decision to reopen the record was not in response to a request by the applicant and that the issue designated for the further hearing was not selected by the applicant.

119. In response to the issue designated by the Board for further hearing, the applicant filed a series of revised architectural drawings for Scheme 2. These drawings depicted a roof over the parking ramp. The roof is below the level of the main floor of the Burns Building and is not included in the lot occupancy or building area calculations. At the public hearing of June 26, 1985, the applicant had initially responded by stating that a roof over the parking would increase the lot occupancy of the building over the permitted guideline. It was not until an in-depth examination of the issue after the public hearing that a plan was developed that would not require further zoning relief.

120. The project architect testified at the further hearing that the roof will cover the ramp to the same degree as it was covered in the original Scheme 1. The roof will contain noise associated with the ramp. The roof's terrace will be landscaped with eight Japanese "snowbell" trees in large tubs. The decision to landscape the terrace was in response to an earlier suggestion made by the Office of Planning. The trees are deciduous and will not create shadows in the winter months. They will improve the aesthetic appearance of the courtyard area.

121. With regard to traffic, the project architect testified that the driveway is extremely long with approximately 140 feet under cover that could accommodate at least seven automobiles. The Board finds that the length of the driveway will prevent automobiles from queuing on Eye Street.

122. The project architect testified that the garage would be ventilated in conformance with the requirements of the D.C. Building Code. The parking ramp roof and the garage opening would help contain fumes and draw them gradually down the garage to the vertical exhaust shafts in the building. The Board finds that the ramp roof, in conjunction with the exhaust system, is an improvement over the original design for Scheme 2 and will not create any objectionable impacts on The President Condominium due to fumes.

123. The proposed parking ramp roof is of a similar height as the existing storage building on the subject site. There would be no change in terms of light and air to the President Condominium when compared to the storage building.

Further, the roof will not block any windows in the Condominium since it has no side windows at the ground level adjacent to the proposed roof over the garage entrance.

124. The project architect testified that he had studied four methods of gaining access to the proposed addition. The best method is the straight-line ramp as proposed. An L-shaped ramp, scissor ramp or helical ramp are all unacceptable. Any access from 22nd Street would have to move both across the addition and, because of the depth of penetration, return on an L-shaped leg to reach the ultimate elevation. This would create a physical barrier within two levels of the addition that would impair the functioning of two essential treatment floors from other clinical spaces. The straight-line ramp does not bisect any floor area. A helical ramp could not fit on the site and would require both an ingress and egress cut on 22nd Street. It would also require the use of public space which is heavily loaded with sewer, water, electrical utilities and vaults. Relocation of the utilities would be very expensive.

125. A representative of the applicant testified that the University had studied traffic on 22nd Street and had requested changes to the traffic light cycles. These changes resulted in less congestion on the street and an overall improvement in both vehicular and pedestrian traffic flow. The proposed addition will generate only 1.5 trips per minute during peak hours and the Board finds that it will not generate objectionable traffic levels. The level of service will remain at A.

126. The applicant's traffic consultant testified that from a transportation planning perspective, it would be safer to restrict traffic flow into the drive-through on the site in a one-way direction. The Board finds that a two-way flow would not be in the interest of the public's health, safety and general welfare.

127. The Office of Planning, by memorandum dated October 9, 1985, and through the testimony of its representative at the further hearing, stated that the applicant had responded to the concern raised by the Board and that the proposed modifications represent an improvement to Scheme 2. OP reconfirmed its earlier conclusion that Eye Street constitutes a proper location for the garage entrance. As to noise and fumes, the ramp roof, including the landscaping on the roof terrace that was originally proposed by OP, will have a favorable impact. The roof will have a negligible impact on the light and air of the President Condominium. Finally, OP noted that DPW has previously found that the addition will have a negligible impact on the adjacent street system. The Board concurs with the findings and

reasoning of the Office of Planning and will incorporate the design changes to Scheme 2 in its final decision.

128. Advisory Neighborhood Commission 2A, by resolution dated October 8, 1985, recommended that the Board deny the application. Although the ANC found that the parking ramp roof did ameliorate the alleged adverse impacts created by the ramp, there were other adverse impacts created by the addition. The Board notes that the scope of the further hearing was limited to a single issue and finds that the ANC's resolution states that the applicant responded favorably to that issue. The Board has previously addressed the other issues and concerns raised by the ANC with respect to the application.

129. James T. Draude testified in opposition to the modifications to Scheme 2. Mr. Draude admitted that the parking ramp roof will substantially, if not totally, eliminate the aggravating circumstance of traffic fumes created by the parking ramp. He stated that there were other overall impacts created by the addition that the Board should consider including the location of the driveway on Eye Street.

130. Judith A. Smalley testified on behalf of the President Condominium Association. Ms. Smalley conceded that the roof will eliminate traffic fumes but that the Condominium was still opposed to the addition due to other impacts.

131. The Board is required by statute to give "great weight" to the issues and concerns of the ANC that is reduced to writing and upon which a written recommendation is made. The Board in addressing the report of the ANC and the concerns of the opposition herein finds that the proposed addition will not result in objectionable noise levels. The subject site and the President Condominium are located in a highly urbanized area of the city that generates urban noise levels. The principal noise generated in the vicinity is from automobiles. The opposition testified that the surface parking lot use of the subject site does generate some noise, as well as traffic on existing streets. The existing surface parking lot does not provide a noise barrier between 22nd Street and the Condominium. The erection of the addition will provide such a barrier. The proposed parking will be within a garage that will reduce noise levels. The peak hour of operation for the garage, when there will be 90 vehicles entering or leaving, will not be when residents are sleeping. Existing noise levels in the evening will remain as they are today since the proposed facility will be closed.

132. The Board finds that the proposed addition, and especially Scheme 2, will not create objectionable light and

air conditions. The law is well established that a property owner must provide his own light and air from his own land. The Board has traditionally found that one site may not be used to provide required light and air to another site. The Building Code requires light and air to come from the lot upon which the building is to be served is located.

133. When compared to a non-university owned development, a sunlight study revealed that there is an insignificant difference in the amount of sunlight between an 80 foot matter of right development and both Scheme 1 and Scheme 2. In fact, Scheme 2 provides an additional 21 foot wide minimum court yard area. The University has made a good faith effort to provide more light and air than the regulations require.

134. The R-5-C District does not require the University to provide light and air for the Condominium. Specifically, no side yards or court yards are required in this zone. The Board must consider what the regulations require and use it as a guide in evaluating the adequacy of light and air. In this instance, the amount of light and air provided under Scheme 2 for the existing court on the President Condominium lot exceeds the court yard requirements if there were no lot line. The Board finds that the light and air fully satisfy the intent and spirit of the Zoning Regulations.

135. The oppositions' traffic analysis was defective in the following respects:

- A. The consultant admitted that he did not have standard employee rates for the proposed use, but rather, rates for other types of health care institutions prepared by the Institute of Transportation Engineers;
- B. The analysis is based upon the assumption that the existing Burns Building has only 291 employees whereas the actual number is closer to 394 FTE's or 476 trip generators;
- C. The analysis is based upon the assumption that there will be an increase of 574 employees whereas the number is actually 300 FTE's or 171 number trip generators to the subject site and an overall increase to the medical center of 106 FTE's or 50 trip generators;
- D. The analysis computes traffic generation, parking and visitor projections based upon the erroneous employee assumptions.

- E. The consultant conceded that his projections would change if different employment projections were used but he did not use figures that were based upon actual surveys and use instead, figures based upon national averages for different types of health care uses.
- F. The consultant admitted that the number of trips would be reduced with a parking garage capacity of 140 since he had assumed an unlimited number of parking spaces were available when he generated his projections. The projected number of trips to the garage at its peak hour would be approximately 90 or about 1-1/2 cars every minute. The Board finds that this figure will not create dangerous pedestrian conflicts.
- G. The consultant conceded that he did not witness any evidence of traffic interference on Eye Street caused by two existing parking garages. He did not know the capacity of these garages.

The Board finds that based upon the above, the testimony and analysis of the oppositions' traffic consultant were not persuasive.

136. With respect to the roof structure relief for both Schemes, the Board finds that the subject site is long and narrow and to set back from both sides of the lot and get all of the equipment in this highly specialized building can only be accomplished by encroaching upon the setback line of the roof structure. There is an operating difficulty in locating the equipment while not exceeding the .37 FAR. Scheme 2 set back the penthouse more than 18.5 feet from the Condominium and has a lesser impact than Scheme 1.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant has submitted two schemes of the proposed addition to the Board for its review and consideration. Scheme 1 requires a special exception under Paragraph 3101.46 and a special exception under Sub-section 3308.2. Scheme 2 requires the same two special exceptions and also two area variances under Sub-section 3306.1 and Paragraph 7105.12. The Board concludes that the applicant has met its burden of proof.

The special exception to permit a university use requires compliance with the requirements of Paragraph 3101.46 and that under Sub-section 8207.2 the relief requested can be granted as in harmony with the general

purpose and intent of the Zoning Regulations and that it will not tend to affect adversely the use of neighboring property. The Board concludes that the applicant has met its burden and has addressed the relevant issues. Specifically, the applicant is an academic institution of higher learning, the proposed use will not be objectionable because of noise, number of students and light and air. The Board concludes that the use is located so as not to become objectionable to neighboring property.

The total bulk of all buildings and structures on the campus does not exceed the gross floor area prescribed for the R-5-C District. The applicant has submitted a plan for developing the campus as a whole. No interim use is requested by the applicant. The Office of Planning and the Department of Public Works have reviewed and reported on this application. OP did not make a final recommendation but did comment favorably on the criteria for the requested relief. DPW reported that the addition would not adversely affect traffic and parking conditions.

The Board further concludes that due to the conditions relating to the existing Burns Building, the long and narrow shape of the proposed addition, full compliance with Sub-section 3308.2 and Paragraph 3308.12 of the Zoning Regulations relating to the setback and number of roof structures would be unduly restrictive and unreasonable. Operational factors justify the location of a separate structure for the addition. Construction of a single roof enclosure would be structurally infeasible due to the height difference between the Burns Building and the addition. The Board concludes that the applicant has satisfied the requirements of Sub-section 3308.2 and Paragraph 3308.12 and that the special exception can be granted as 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.

As to the requested area variance relief for Scheme 2, the applicant must establish that there is an exceptional or extraordinary condition inherent in the site that causes practical difficulties in fully complying with the Zoning Regulations. The Board concludes that a combination of factors affecting the subject site, including its long and narrow shape and the existence of the Burns Building, constitute an extraordinary or exceptional situation or condition affecting the subject site. Strict application of the Zoning Regulations would create practical difficulties because it would decrease the amount of light and air reaching the President Condominium in order to produce a result that is contrary to the intent of the Regulations. The applicant has stated that its desire is to provide additional light and air to the Condominium. The Board concludes that Scheme 2, as amended, will result in less of

an impact than Scheme 1 even though Scheme 2 requires variance relief.

The Board further concludes that the requested relief can be granted without substantial detriment to the public good and in fact, advances the public good by providing modern health care services and state-of-the-art academic instruction to future health care professionals. The relief can also be granted without substantially impairing the intent, purpose and integrity of the zone plan since universities are permitted in even the most restrictive residential zones. Also, the proposed addition will provide more light and air than a building that could be built as a matter-of-right.

The Board concludes that it has accorded to the Advisory Neighborhood Commission 2A the "great weight" to which it is entitled by statute.

In response to the issue of further hearing, the Board concludes that the applicant has successfully developed architectural design changes to Scheme 2 that address the issue raised by the Board. With respect to noise, the Board reiterates its previous conclusion that there are general urban noise levels in this downtown neighborhood that are generated by vehicular traffic and these levels will not be altered by the additional traffic created by the addition. The parking ramp roof will serve to contain the noise generated by the ramp.

In terms of light and air, the Board concludes that the roof over the ramp is only 13 feet above Eye Street and does not block any windows of the adjacent President Condominium. The condition will be similar to that currently existing on the site created by an existing storage building. As the Board has concluded previously, the applicant's proposed addition is providing more light and air than the Condominium is entitled to as a matter-of-law. The Board also notes that in response to a Board member's question no light and air easements were ever sought by the Condominium.

With respect to fumes, the Board concludes that the roof over the ramp will significantly improve the impact created by the existing design of Scheme 2. The Board notes that the Office of Planning, Advisory Neighborhood Commission 2A and even the parties in opposition concur with this assessment.

The Board has previously concluded that the proposed addition will not create objectionable traffic impacts. The driveway ramp is long enough to accommodate vehicles entering the garage. Surrounding levels of service will not change. The addition will not cause congestion on the

streets. The University should continue to work with the City to improve the traffic light signalization system.

Accordingly, it is hereby ORDERED that the application is GRANTED subject to the condition that the development shall be constructed in accordance with the modified plans of Scheme 2 marked as Exhibit No. 56B of the record.

VOTE: 3-1 (Charles R. Norris, William F. McIntosh and Carrie L. Thornhill to grant; Lindsley Williams opposed; Douglas J. Patton not present, not voting).

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

ATTESTED BY:



CECIL B. TUCKER  
Acting Executive Director

FINAL DATE OF ORDER: 20 DEC 1995

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.

14261order/LJPJ