GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 14640 of the American University, as amended, pursuant to 11 DCMR 3108.1, for a special exception under Section 211 for review and approval of a revised campus plan in the R-1-B, R-5-A and R-5-B Districts; in the area generally bounded by Van Ness Street on the north; Glenbrook Road, Rockwood Parkway and Newark Street on the south; University Avenue and 46th Street on the west, and; Nebraska and Massachusetts Avenues east of Ward Circle, N.W. on the east; and in the area bounded by Yuma Street on the north; Warren Street on the south; 42nd Street on the west, and; Nebraska Avenue and Tenley Circle, N.W. on the east (Square 1560, Lot 807; Square 1599, Lots 805 and 812; Square 1600, Lots 1, 800, 801, 810 and 814; Square 1601, Lot 3; Square 1728, Lot 1).

Application No. 15109 of the American University, pursuant to 11 DCMR 3108.1, for a special exception under Section 211 for further processing of the Washington College of Law, temporary trailers, an addition to the Mary Graydon Center, and an addition to the Butler Pavilion Shops in conjunction with a proposed revised campus plan (BZA Application No. 14640) in an R-1-B and R-5-A District at premises 4400 Massachusetts Avenue, N.W., (Square 1599, Lot 805 and Square 1600, Lot 1).

HEARING DATES: October 28 and November 12, 1987; January 6 and 30, 1988; Further Hearings on July 12, October 20, 21 and November 1, 1989
DECISION DATES: March 2, April 6, 1988 and December 6, 1989

FINDINGS OF FACT:

1. This is an application by the American University (AU or the University) for review and approval of a revised Campus plan as a special exception under 11 DCMR 211. The application was originally filed on May 22, 1987 as "The American University Campus Plan: 1987-2000" (The 1987 Plan) which was the subject of public hearing on October 28 and November 12, 1987 and January 6 and 30, 1988. The Board on March 2 and April 6, 1988 considered a decision on the 1987 Plan. On April 6, 1988, the Board considered a request dated March 15, 1988 from the applicant to withdraw the application. By letter dated May 9, 1988, the Board denied the request to withdraw the application and reopened the record to receive a revised proposed campus plan.

2. In the May 9, 1988 letter, the Board directed AU to respond directly to several potential guidelines proposed by Neighbors for a Livable Community (NLC), a citizen group representing virtually all neighboring interests and party to this case. The Board directed that the house of the University President be included in the boundaries of the revised campus plans. The guidelines included the following:

A. The University locate its parking lot in the proposed 460-car garage facing neighboring residences, but under the new buildings to be constructed along the major arterials, or underground near the arterials, at a site where traffic congestion, noise, and unsightly conditions will not be experienced by residences on the University's perimeter.

B. The proposed Arts Center be relocated close to the arterials which would be used by the crowds and service vehicles going to and from it.

C. The proposed law school be placed on an alternative site -- either that which the University has already identified or another one similarly removed from proximity to neighboring residences.

D. The residential addition proposed for Nebraska Hall be placed in an alternative location not in close proximity to residential neighbors.

E. The Reeves Gate remain open, with the possibility of being moved to another location on Nebraska Avenue to facilitate access and egress.

F. A cap be established on University population segmented by significant groups such as faculty, staff, full-time students, part-time students, etc., at the levels projected by the University in its present application, with any increase in a population segment to be treated as a plan change calling for further application to the Board.

G. The University instruct its planners to adopt, at the outset, the objective of avoiding, in the new plan, objectionable impacts on neighboring property, and to prepare the plan in a fashion consistent with that objective.

H. The University and the planners consult closely with representatives designated by the neighbors, including the organizations that have participated in this proceeding.

I. The University proceed, in close consultation with the neighbors, to alleviate existing objectionable conditions in a way satisfactory to the neighbors, including:

i. diverting Fletcher Gate traffic so it does not go down Rockwood Parkway into the neighborhood streets;

ii. devising a program for effectively reducing and controlling parking by AU-related cars on neighborhood streets, insuring use of AU parking facilities, and insuring accountability of students and staff using cars;

iii. relocating the surface parking lot on the western border of the campus so as to eliminate adverse impacts on adjacent properties;

iv. taking prompt action to minimize the adverse impact of existing lighting on the neighboring residences, and preparing a detailed lighting plan for the University as a whole; and

v. establishing and maintaining screening by berms, walls, fences, trees, and shrubbery to provide effective visual barriers between campus structures and activities and neighboring residences.

3. On April 5, 1989, the Board granted the request of AU, to schedule a further hearing for July 12, 1989. The Board directed that all material concerning the revised proposed campus plan be filed by May 5, 1989. On May 5, 1989, together with the revised proposed Campus Plan ("the American University Campus Plan 1989-2000"), AU filed an application for further processing of the law school building, additions to the Mary Graydon Center and Butler Pavilion, and Temporary Trailers in BZA Application No. 15109. In addition, on May 4, 1989, AU filed an application for special exception for accessory use of the parking lot of the Metropolitan Memorial United Methodist Church in BZA Application No. 15107. Notice of public hearing was given for all cases which were heard concurrently and the record was consolidated, however, BZA Application No. 15107 is treated in a separate Board Order.

4. The May 5, 1989 submission filed by AU also amended Application No. 14640 to reflect the subdivision of lot 2 into lot 814 in Square 1600.

5. At the request of several neighbors in the Fort Gaines area, the July 12, 1989 hearing was postponed to October 20 and 21, 1989. Prior to the hearing scheduled for July 12, 1989, AU executed an Agreement with neighborhood representatives that concluded several months of intense negotiations. The Agreement, which was submitted in the record and marked as Exhibit No. 196 was executed by AU, Neighbors for a Livable Community, Spring Valley-Wesley Heights Citizens Association, and Westover Place Homeowners Association, and was endorsed by Advisory Neighborhood Commission 3D and Embassy Park Homeowners Association.

6. The Agreement, provides that the University will delete a number of facilities, additions and other proposals contained in the 1987 Plan; each of the proposed buildings or additions will be built in accordance with certain Building Parameters (Exhibit B); a Lighting Plan will be implemented (Exhibit C); a Landscape Plan will be implemented (Exhibit D); a Population Cap will be established (Exhibit E); Parking Program Changes will be implemented (Exhibit F); operational controls will be established for the law school (Exhibit G); and the use of the western parking strip and recreational fields will be controlled as set forth in Exhibits H and I. Further details of each of these provisions are set forth below. In addition, the Agreement requires the community groups who executed the Agreement to support the Campus Plan (BZA Application No. 14640), further processing applications (BZA Application No. 15109) and the application to use the Methodist Church parking lot (BZA Application No. 15107).

7. The guidelines in the Board's May 9, 1989 letter dealt with two broad areas of campus planning: (i) improving existing conditions, mostly on the perimeter of the campus; and (ii) dealing with proposed future uses and physical facilities. The Lighting Plan, Landscape Plan, Parking Program changes, and uses of the western parking strip and athletic field as set forth in Exhibits C, D, F, H and I of the Agreement are specifically intended primarily to address existing conditions. In addition, the Agreement not to close Reeves Gate and to create a Liaison Committee will address existing conditions. The deletions from the 1987 Plan, as well as the Building Parameters, Population Caps, and Operational Controls on the law school (Exhibits B, E and G) are primarily intended to address the concerns of the neighbors on the future uses and facilities on the campus.

8. Following the instructions of the Board to meet to discuss and negotiate the issues, the University and neighborhood representatives met formally weekly or bi-weekly from September, 1988 to May, 1989 (approximately 30 times). Including home and site visits and informal gatherings, the University or its representatives met with

its neighbors approximately 100 times. The result in a case previously deadlocked by opposition, is that the University has submitted to the Board a signed Agreement from most of the community. The Agreement addresses the campus and its components as a totality; each component dependent upon, and related to others. The Agreement is supported by most of the neighborhood groups, including the umbrella group NLC. Those who oppose parts of the Campus Plan, for example the Fort Gaines Citizens Association, have not come forward with any alternative plan.

9. The Vice-President of the University testified that following the May 9, 1988 letter from the Board a "fresh approach" was taken including a new team of professional consultants in planning, transportation and legal counsel, to reevaluate the 1987 Plan. The University's long-range planning study, "AU 100", has been adopted by its Board of Trustees as the basic planning document for the University. Notwithstanding the advancement of the University's reputation through steady improvement in the quality of the academic programs, the caliber of undergraduate and graduate students, and the talent of the faculty and staff, the facility improvements have not kept pace with programmatic improvements. Even after every facility in the Plan is built, the gross square footage of floor area per student will be below that of comparable instutitions. The Vice-President emphasized that, as stated in AU 100, the goals of improving the facilities will be achieved while maintaining a stable student population.

10. In reevaluating the 1987 Plan, the neighbors and the University Team developed a comprehensive set of criteria for each proposed facility to determine the feasibility or alternative locations for each facility. This approach led to a number of significant changes from the 1987 Plan as set forth below:

A. Research Center: 150,000 square foot building to be located north of Massachusetts Avenue in an unimproved area was deleted from the Plan.

B. Law School: Approximately 20,000 square feet was eliminated from the proposed law school building.

C. Nebraska Hall addition: A proposed 50,000 square foot addition to Nebraska Hall was deleted from the Plan.

D. Arts Center: By splitting the theater and other related arts uses, the current proposal calls for an addition to the Watkins and Kreeger Buildings of only 25,000 square feet.

E. Parking Garage: The 1987 Plan called for a 140,000 square foot parking garage which was deleted from the Plan, but a tentative site adjacent to the Osborn Building is shown if needed at a later date.

F. Reeves Gate: The 1989 Plan does not propose closing Reeves Gate.

As the Vice-President testified, the 1989 Plan reflects a total reduction of 37 percent (295,000 square feet) from the 1987 Plan.

11. The Vice-President stated that the single highest priority of the University is the law school facility. As confirmed by the University's consultants, at the instruction of the University and as suggested in the May 9, 1988 Board letter, an exhaustive search and analysis was undertaken to find an alternative, feasible location for the law school other than the Cassel site. Through the site selection criteria, developed by the neighbors, the University and its professional consultants, it was determined that the Cassell site was the only appropriate location. The existing Cassell center is a World War II temporary structure that was formerly the sole athletic and recreational center for the University, and used during all hours of the day and night. Over the years, a number of complaints have been received regarding noise and activity.

12. With the relocation of the law school from the John Sherman Myers Building to the new facility on the Cassell site, academic functions now housed in the Clark, Roper, Gray and McCabe Halls will be transferred to the Myers Building. The Clark, Roper, Gray, McCabe complex will be converted into its original use as residence halls for 300 students. The relocation of offices and classrooms in these facilities will result in a demand for temporary administrative space, which the University proposes to accommodate with temporary trailers located adjacent to the Sports and Convocation Center. The trailers will be a maximum of twelve containing a total capacity of not more than 12,000 square feet.

13. The second highest priority of the University is the need for increased and improved facilities for the fine and performing arts. These facilities will consist of three components including a theater containing 40,000 square feet, an addition to the Watkins-Kreeger Buildings containing 25,000 square feet and the use of the existing New Lecture Hall as an experimental theater.

14. In addition to the law school and Arts Centers, the following buildings or additions are proposed in the 1989 Plan:

A. Phase II of the Bender Library will contain approximately 100,000 square feet to be located adjacent to the existing library on the academic quadrangle.

B. Two additions are proposed for both ends of the School of International Service (SIS), also located on the academic quadrangle. The additions will contain a total of 15,000 square feet.

C. The Science Department requires 50,000 square feet for its program to allow centralization of office, classroom and lab space. The site will be perpendicular to the existing Beeghly Chemistry Building on the interior of the campus.

D. A Business and Communications Building is proposed on the site of the existing fraternity houses. This facility will be used for classroom and general office space, and will contain 50,000 square feet.

E. A central Administration Building is proposed to be located behind the President's Building. This facility will contain approximatelty 15,000 square feet.

F. No parking garage is proposed, but a potential site has been identified in the area of the Osborn Building if necessary to accommodate a need for additional parking.

G. Mary Graydon Addition: A 700 square foot addition to the Mary Graydon Center to enclose an existing snack bar and patio.

H. Butler Pavilion Addition: A 2,000 square foot addition to the campus convenience store located on the ground level of the Pavilion adjacent to the Sports and Convocation Center.

15. The University proposes to delete two parcels from the campus boundary. Parcel A contains approximately 35,000 square feet, located adjacent to the South Korean's property on Glenbrook Road, and was sold to the Government of South Korea in 1986. Parcel B, adjacent to Parcel A and Glenbrook Road, contains approximately 32,718 square feet and is under a contract of sale for residential use. Under the terms of the contract, the property will be developed in accordance with the restrictions of the R-1-A District. The property is the subject of an application for rezoning from R-5-A to R-1-A in Zoning Commission Case No. 89-28. Such rezoning contemplates the deletion of the parcel from the Campus Plan. These parcels will not be used for university

purposes, accordingly the University requests that the boundary be amended.

16. The expert in planning and landscape architecture for the University described the process of developing the planning and landscaping decisions for the Campus Plan as one involving three stages. First was the facilitation of community involvement, second was perimeter conditions and improvements, and third was siting process and alternatives. He emphasized that the community involvement was comprehensive, involving over 100 meetings, and holistic, involving all sites, all alternatives on every border of the campus. The concerns of each of the neighborhood groups were heard, and were incorporated into the planning process.

17. Perimeter conditions and issues were studied, categorized and recorded on a series of drawings. In addition, a photographic survey was done, with neighbors accompanying the consultants, to establish existing conditions and identify problem areas. With considerable input from the adjacent neighbors and others, the planning and landscape architecture consultant undertook to devise solutions for each problem area.

18. One of the solutions is a perimeter fence of three different types to meet the different needs of the perimeter conditions. Again, this process included substantial input from the neighbors on adjacent properties. A six foot, ornamental fence is proposed in the area of Nebraska Hall on Ward Circle, and also in the area parallel to University Avenue. A vinyl clad, chain link fence is proposed for the more wooded areas of Glenbrook Road and Rockwood Parkway and adjacent to the Wesley Seminary. Finally, a six or seven foot high wooden privacy fence is proposed for the perimeter behind the new law school in the Fort Gaines neighborhood, and between the western boundary beginning at Woodway Place and connecting to the existing board fence on the South Korean's property. To accommodate the wishes of the neighbors, five pedestrian gates will permit the neighbors to gain access to University property by key or magnetic card, but will prohibit student passage. The gates are located at points in the fence where the neighbors identified a need to gain access.

19. The more particular landscape schemes proposed for the various areas identified as needing improvement were described in small area studies and plans. Area A, which is the perimeter adjacent to the ballfield and the border of Parcel B, is in three phases. Phase I is the basic perimeter improvement, and Phase II and III, will be implemented upon the occurrence of certain events as set forth in the Agreement. With the hypothetical site plan provided by the contract purchaser, the consultant was able to design its landscape plan to provide a dense area of

planting on University property along the ridge line and just below the ridge line to provide substantial screening of the University. As agreed upon with the Glenbrook Road neighbors and others, Phase II of the Landscape Plan will be implemented immediately upon the removal of any of six trees designated by the neighbors as important to screening. In addition, if necessary to provide further screening after the removal of the said trees, additional landscaping will be added on the east side of the western roadway. Phase III will provide still more landscaping and the removal of parking spaces and reconfiguration of the western roadway upon completion of the Watkins-Kreeger addition. Finally, the Building Parameters provide added protection for neighboring property owners in the nature of a veto of an additional story above the Watkins-Kreeger Buildings if the University fails to demonstrate that the additional story would not have an adverse impact on the neighborhood.

20. Area B, adjacent to University Avenue, involves substantial planting on the existing berm, in addition to the ornamental fence. Area C, adjacent to the Cassell site, includes trees to be added behind the new law school, a landscaped garden area in place of the existing parking circle and a number of other landscape and lighting improvements as agreed with the neighbors. Unless otherwise specified in the Agreement, the landscape improvements, including the perimeter fence, are to be implemented within one year of the written order of the Board approving the Campus Plan.

21. The Board finds that the Landscape Plan adequately addresses the issues raised by the Board in the May 9, 1988 letter to the University regarding existing conditions. Further, the Board finds that the Landscape Plan will mitigate conditions likely to become objectionable to neighboring property owners.

22. The Board finds that the Landscape Plan adequately addresses the issue of buffer on the western perimeter. The Board finds that Parcel B may be deleted from the campus boundary without adverse impact on the adjacent property owners. Finally, the Board finds that Phases II and III of the Landscape Plan will address the legitimate concern of the loss of trees and the construction of the proposed Watkins-Kreeger addition. The Board will have further review of such addition at the time the University submits plans for approval.

23. Campus lighting was analyzed and diagrammed with substantial input from the neighbors. The concerns about light sources, or "hot spots" visible from nearby homes, and light spread onto nearby properties, were carefully drawn onto a lighting diagram. The Lighting Plan which was formulated to handle both existing conditions and future

light problems from buildings or additions, was incorporated into the Agreement. The new improvements set forth in the Lighting Plan include reconfiguring pole lights with new, cut-off features, removing or lowering certain lights, adding curtains to classroom windows and shielding other lights. The Board finds that the Lighting Plan is an appropriate response to existing conditions and will adequately address future conditions.

24. In the siting of facilities, the first step was the organization of major principles of planning. This evolved from the original Olmstead plan and the existing location of buildings and open space on the campus. Second, the University worked in close consultation with the neighbors to establish criteria which was organized in two categories: neighborhood criteria and university criteria. The criteria was then applied to each of the proposed facilities and each identifiable building site. The University and the neighbors ultimately identified thirteen sites, plus two others which evolved into possible sites later in the process.

25. The planning and landscape consultant stated that after some study certain site locations became obvious and were thereafter treated as "givens". For example, the Library Addition located adjacent to the existing library, and the SIS additions on the ends of the SIS Building. After the given sites were deleted from the list, the planners gave a closer analysis of each of the remaining sites for a possible location for each of the three major facilities: the law school, the Arts Center and the Research Center. The remaining sites were as follows: Site 1 (Myers Building, New Lecture Hall and parking lot), Site 2 (President's Building), Site 4 (Cassell Center site), Site 5 (Nebraska Avenue parking lot), and Site 8 (Ballfield). Section analyses were prepared for the remaining sites to determine whether any of them would be suitable for the Research Center, Arts Center and law school.

26. In December, 1988, the University agreed to a major change from the 1987 Plan; AU agreed to delete the Research Center, Nebraska Hall addition, and parking garage, and the law school was down-sized approximately 20,000 square feet. This resulted in a total reduction in the Fort Gaines area of 220,000 square feet of gross floor area deleted from the previous Campus Plan.

27. When the site evaluation criteria were applied to each of the remaining sites, Site 4, the Cassell Center site, was the only remaining site that could accommodate the needs of the University and the interests of the community. Site 1 is too small as was demonstrated by the 1986 architect study. Site 2 is located on the highest elevation of the campus. To place the law school there would require

the destruction of a historically significant building and the removal of 14,000 truckloads of earth requiring two years of excavation. Further, Site 2 has no direct access to a major arterial road. Site 5 would disrupt the single largest parking facility, and deny the opportunity to concentrate user groups to promote parking efficiency. One-half of over 900 spaces would be lost during construction, and that number would have to be regained by the construction of a parking structure. In addition, the site is located adjacent to the most congested street, Nebraska Avenue, and the law school there would exacerbate an already difficult traffic area. The section analysis demonstrated that the topography of Site 5 would create a taller building facing the Westover Place and Embassy Row townhouses. Forty of the residents who now face an open parking area would face a building where none has existed. As later testimony revealed, there is opposition from Westover Place and Embassy Park residents to construction on this site. Likewise, Site 8 would disrupt an existing University use, the athletic fields, and create views from the neighborhood of a building where open space and ballfields had been. Site 8 offers no opportunity to earth-shelter a building, and has inadequate vehicular access.

28. In contrast, Site 4 offers the opportunity to respond positively to each of the factors set forth in the previous paragraph. Views of an existing, temporary building are replaced with enlarged views and landscaped areas. Parking is retained, although restricted to decrease its frequency of use, and reserved parking is provided to accommodate the needs of the other users. The benefits of the topography are fully used to put a great deal of floor space below ground. It is the only site where an existing, unattractive building can be replaced with a well-designed building that provides improved views. Accordingly, applying the site evaluation criteria to the several remaining sites, and with the illustrations of the various sections and drawings of the facilities on these sites, it was concluded that Site 4 was the only appropriate site for the law school. The Board concurs.

29. The Board finds that the site evaluation and site selection criteria developed by the University and neighbors were comprehensive. The Board further finds that the site selections of buildings and additions adequately address the legitimate concerns of the neighbors, and are not likely to create conditions objectionable to neighboring property owners. Finally, the Board finds that the site selections for the law school, trailers and additions to the Mary Graydon Center and Butler Pavilion are appropriate, and not likely to create conditions objectionable to neighboring properties.

30. The transportation consultant for the University analyzed the existing conditions on the campus beginning in the fall, 1988, following the opening of the Sports & Convocation Center, the last major facility built on the campus. The consultant's study focused on the concerns of the neighborhoods of Fort Gaines, AU Park, Spring Valley, Wesley Heights, Westover and Embassy Park. The consultant then assessed the anticipated impact of traffic and circulation through the year 2000 from the implementation of the proposed Campus Plan, and developed appropriate recommendations and responses. The transportation consultant concluded that the implementation of the 1989 Campus Plan will not create adverse impact on the operation of the streets in the vicinity of The American University.

31. The transportation consultant's conclusions were based on several points, including the finding that there is a decreasing role of University-related traffic in the area. Second, the University is experiencing increased Metrorail access and use of its shuttle to the nearby Metrorail station. Third, the Plan includes a comprehensive revision of parking allocation and parking management. Fourth, there are population caps specified within the Plan which serve to limit the demand for parking and travel to the University by automobiles. Fifth, the maintenance of existing gates, and the construction of the perimeter fence will protect adjacent neighborhoods from adverse impacts on traffic and parking on neighborhood streets.

32. While sixty-five percent of those students and employees who commute to the University do so by automibile, there has been a thirty-seven percent increase in the use of the Metrorail shuttle to the Tenleytown Metro station. In the 15 year period between academic year 1974-75 and academic year 1987-88, the total number of commuters to the University has decreased by twenty-three percent (13,000 per day to approximately 10,000 per day). During the same 15 year period, the consultant stated that the traffic volume on both Nebraska and Massachusetts Avenues had increased approximately twenty-five percent. Therefore, while the traffic to and from the University has been decreasing by approximately one-quarter, non-University related traffic in the neighborhood has gone up by approximately the same percent.

33. The most pervasive concern expressed by the neighbors, in particular the Fort Gaines residents, was the concern of University-related parking on neighborhood residential streets. During the summer, and again in early October 1988, the consultant counted the number of cars parked on certain streets in the immediate area and compared the two counts. There was University-related parking on the streets, notwithstanding the fact that there were vacant parking spaces on the campus.

34. In response to these concerns and issues, the transportation consultant recommended the implementation of a parking management program for the reallocation and improved management of the parking resources. A key element of the plan was to dedicate the entire 902 space parking lot located on Nebraska Avenue for commuter students. The program is designed to eliminate the need for this large user group to search the campus for parking spaces. Previously the lot was available to students and non-students, and to non-University vehicles on a cash basis. Approximately 15 percent of the spaces of that lot were previously used by non-University related vehicles. As of the fall, 1989, the lot is controlled by a gate that prohibits use by anyone other than commuting students with permits. In addition, a number of other general purpose parking spaces were eliminated to further control the parking resources. Significantly, as it relates to the law school location analysis, only the Nebraska lot has the capacity to so consolidate commuter parking.

35. In connection with the proposed law school on the Cassell site, 215 spaces in the Nebraska Avenue lot adjacent to Ward Circle will be dedicated for use by law school students only. This is recommended to further ensure that law students not park in the adjacent Fort Gaines neighborhood. In conjunction with the perimeter fence and the notification to all students, the parking on neighborhood streets in the Fort Gains area will be minimized.

36. To facilitate greater use of the nearby Tenleytown Metrorail station, the University has increased its peak hour bus frequency, providing buses every 10 minutes during peak hours. This has resulted in a thirty-seven percent increase in daily use of the shuttle bus. The bus also now runs seven days a week rather than five days a week, and carries approximately 2,540 daily commuters.

37. Pursuant to the Agreement with the neighbors, a Subcommittee of the Liaison Committee, to be known as the Traffic Subcommittee, will deal with certain issues that are beyond the scope of the Campus Plan process. Specifically, the Traffic Subcommittee, to be comprised of University personnel and representatives of the neighborhoods, will explore such issues as cut-through traffic in Spring Valley, specifically on Rockwood Parkway, parking meters along Massachusetts Avenue in the area of Glover Gate, neighborhood-related parking, and other similar issues.

38. The transportation consultant further testified that while the parking garage has been deleted from the 1989 Campus Plan, the Team has developed a proposed location for a parking facility if one is deemed necessary as new facilities are constructed which displace existing parking.

The potential location for the parking facility would be adjacent to the Osborn Building.

39. The Reeves Gate on Nebraska Avenue will remain open. The Plan proposes the closure of a portion of the interior roadway between the McKinley Building and Letts-Anderson Halls. This will facilitate and make safer the pedestrian traffic between these two busy facilities.

40. The transportation and parking considerations relative to the feasibility of the Cassell site for the law school were also studied by the traffic consultant. The consultant noted that the Cassell Center is an existing facility with driveway access to ninety-two general parking spaces. There will be no change in the physical location of the vehicular access relative to the traffic stream on Massachusetts Avenue. The parking spaces on the Cassell site will be restricted for use only for faculty, staff and the handicapped, and therefore will generate fewer in-and-out trips. Therefore, as far as parking is concerned, the law school would be an improvement over the existing conditions at Cassell.

41. The transportation consultant testified that the effectiveness of the control of law school student parking on adjacent neighborhood streets will be based largely on the effectiveness of the perimeter fence. The consultant analyzed the time it would take a student to walk from the preferential parking spaces in the Nebraska Avenue lot to the entrance of the law school, and compared that with parking on the streets in Fort Gaines and walking around the perimeter fence to the entrance to the law school. The study showed that the time is shorter from the Nebraska Avenue lot than the time it would take from the Fort Gaines neighborhood to the law school. Later testimony revealed that alternate Sites 1 and 2 suggested by Fort Gaines residents are the same distance from the Fort Gaines Streets as the Cassell Site, but do not have the benefit of the fence and parking plan. The Board finds that access to the proposed law school is adequate and that the parking spaces reserved in the Nebraska Avenue lot and perimeter fence will alleviate objectionable parking conditions.

42. In conclusion, the traffic study determined that the Campus Plan will not create adverse impacts on the operation of the streets in the vicinity of The American University. The Board so finds.

43. The University's expert in architecture and planning testified that his principal task was the facility for the Washington College of Law, but that he was closely involved in the site selection process which had an immense impact on the siting and design of the law school building. He testified that on the basis of the site selection

analysis conducted by the entire team, in his opinion the Cassell site was the only appropriate site for the law school facility. He stated that the existing Cassell building is an unattractive, temporary World War II structure that is wearing out. There is a 600 foot parking area extending from the rear of the building to the property line and from the western edge of the building up to the Park Service property on Ward Circle. There is loading in the rear of the building. In addition, the site is large and well able to accommodate the law school building and a substantial area of landscaping. There is no alley at the rear of the property which allows the law school to restrict access to the rear of the building. Finally, from a design perspective, the land on the site slopes from Fort Gaines down to Massachusetts Avenue allowing a great deal of the building to be out of the view of the community, as will be described further below.

44. The architecture and planning consultant reviewed each of the design solutions and emphasized the input of all the interested neighbors, particularly the Fort Gaines residents. In particular, he testified that the neighbors asked that the crescent-shaped wing on the first design be removed to allow continued visibility of Ward Circle from Fort Gaines. Early in the design development stage the building was pushed to the east to limit the number of houses impacted by the new facility. Also early in the design stages, the top story was set back a full fifty feet from the building line at the rear. Last, the western third of the building containing the library was dropped a full story into the ground. At this point, the first elevations were developed.

45. The early elevations contained towers for articulation. Based on the objections from the neighbors to the towers, these were deleted from the plan, although the one tower at Ward Circle remained initially. To address the concerns of the neighbors about the windows facing the rear of the building, the architects began to develop ways to deal with these impacts. First, they began to program the building to allow administrative type uses at the rear so that the hours of use would be similar to normal business hours. In addition, where it was necessary to have classroom or other student use at the rear of the building, the University agreed to keep the window sills above six feet from the floor to prohibit people from looking out into the private homes.

46. The architecture and planning consultant testified that after these design changes, the height of the building conformed with the height of the existing Cassell building, as requested by the neighbors. In addition, all of the aforementioned restrictions, landscaping, and design controls were in place. However, in an effort to obtain the

agreement of the Fort Gaines neighbors, the University instructed its architects to remove the entire third floor and place it below grade. The resulting design was a building that was no more than one-story, and at some points, approximately one-half story above grade from the perspective of Fort Gaines. By putting all of the space below grade, an additional $2 million in construction costs was added to accommodate skylights, retaining walls and other measures to provide adequate light to the interior of the building. At this point, for three-quarters of the length of the building, the law school was designed to be substantially lower than existing Cassell.

47. At the specific request of one of the Fort Gaines neighbors, the top story of the eastern end of the building was reconfigured to allow the same views as exist over the Cassell building at this end. Additionally, at the specific request of one of the neighbors, one particular wall section and a particular window were reconfigured to accommodate the request of a neighbor to retain the same views he has at present.

48. The consultant further testified that with the law school building as proposed, the setbacks from the property line will be increased from twenty feet to thirty feet over what exists today at the eastern end, and increased from sixty feet to sixty-five feet at the western end.

49. The consultant described the design of the building. It is a mixture of brick and case stone, with punch windows and an abundance of architectural detail. The design was reviewed by an architectural critic and professor of architecture, who was employed by the neighbors to critique the design of the building. The University's consultant testified that in the first meeting, the community's consultant stated that his opinion was that this was the correct site for the law school. With regard to the design, the community consultant had some suggestions regarding the distribution of cast stone and brick, and other recommendations. All of the recommendations were incorporated in the design.

50. In conclusion, the architecture and planning consultant for the University stated that the proposed Campus Plan, including the facility for the law school, is not likely to be objectionable to neighboring property because of noise, traffic, number of students or other objectionable conditions. The Board so finds.

51. The Board finds that the siting, massing and design of the law school building are appropriate and that the proposed plan is thoroughly responsive to the reasonable concerns of the neighbors.

52. The Academic Dean of the Washington College of Law, testified on behalf of the law school. The Law School Dean stated that he has been Chairman of the law school's Committee on Buildings for the past five years. The law school was founded in 1896 by two women as one of the first law schools in the United States to admit women. The public spirit of these women carries forward to today in that about forty percent of the graduates go into public service, government or public practice. The law school has one of the finest clinical programs in the United States including a veterans clinic, public interest law clinic, Appellate Advocacy clinic and Women in the Law clinic. The law school presently has about 1,000 students, and is committed to the population cap which is set forth in the Agreement. Of approximately 5,600 applicants in the past academic year, approximately one-third of those were from the greater Washington area. Further, approximately seventy-five percent of these graduates stay in the Washington area. The law school has a full-time faculty of forty-two and a professional staff of sixty-five.

53. A recent article and study in the Journal of Legal Education rated the law school in the very top of the law schools in the United States in terms of productivity of faculty scholarship. In contrast, the Law School Dean stated that the law school is in the bottom two percent of law schools in the United States in terms of space. The national average square foot per student for law schools is 120. The American University Washington College of Law has fifty-three.

54. The Law School Dean testified that the American Bar Association and the Association of American Law Schools had cited the undersized and nonunified physical plant of the law school as early as 1980. In 1986, in a further review, the University was directed to improve, expand and create physical space for its law program consistent with the standards of the ABA. With regard to a unified building, the Dean testified that while some law schools do exist in separate buildings, no law school built in the last twenty-five years has opted for a structure other than a single, self-contained unit.

55. The Law School Dean testified that the first major study of a new site for the law school was referred to earlier as Site 1 which is located adjacent to the existing law school, Kay Spiritual Center and parking lot. The study concluded that the site is too small to accommodate the law school, and that to design the building to be located there would be irresponsible, and incompatible with the needs of the University and the community.

56. The Law School Dean testified that the Building Committee had visited other law schools, studied its own

needs, and developed a program for a 175,000 square foot building. This was cut back to 150,000 square feet after consultations with the site planner. That 150,000 square foot building was the building that was the subject of the 1987 Campus Plan. In response to the results of the hearings on the 1987 Plan, the law school program was cut back to 142,000 square feet, and ultimately to approximately 130,000 square feet during the design revisions. The Dean stated that he attended nearly every community meeting, negotiating session and on-site visit during the last year of meetings.

57. With regard to the question of an off-campus location for the law school, the Law School Dean testified that over 25 years ago the law school was located downtown but was found to be incompatible with the mission of the law school in terms of legal education. This is so due to the strong interrelationship between the University and its law school, including its faculty and programs.

58. When the site evaluation was applied, the number of sites was narrowed to three sites. The University and its consultants looked again closely at Site 2, Site 5 and Site 4. They looked closely at the Cassell site since it appeared to offer the best opportunity to improve existing conditions. Based on research, the Cassell Center has had up to 1,500 daily users, and under no conceivable scenario will there be more than 700 people in the law school building. Since the time the Cassell Building was obtained from the U.S. Navy in the 1940's, the building has been used for athletic events, fraternity and sorority dances, bowling, swimming practice and meets, administrative and classroom use, and a post office. The Dean noted the design modifications that had been made for the Cassell site, including the screening at the rear, the restriction of access to the rear of the building, the controls on the emission of light and sound, and other items mentioned by the architect. The Dean concluded that after having reviewed the plans developed by the architects, the design of the law school building will significantly improve the existing conditions on the Cassell site.

59. The Law School Dean stated that the many design changes made were done for only one reason, to respond to the concerns of the Fort Gaines community. In particular, the Dean noted that the creation of below grade space was a difficult idea for the law school to accept given that they wanted to have natural light in the new building. However, they were governed by a strong desire to keep the building within the profile of the existing Cassell site as viewed from the neighborhood.

60. The Law School Dean testified to what is known as Exhibit G in the Agreement which details the controls that

the University was willing to impose upon itself. These controls include turning off the lights on the third floor of the building at 11:00 P.M. every night, placing shades on windows facing the residential neighborhood, limiting commercial delivery from 8:00 A.M. to 6:00 P.M. Monday through Friday and 9:00 A.M. to 5:00 P.M. on the weekends, and others. Exhibit G is not binding on the University without the Agreement being signed by the Fort Gaines Citizens Association, AU Park Citizens Association and ANC 3E. However, the Dean stated that if required by the Board, the law school would abide by Exhibit G.

61. On cross-examination, the Dean stated that in 1985 the law school was before the BZA on an application to move the law school to the Immaculata Campus. He stated that the law school objected to this move at the outset because the move was off-campus and would have caused the school to be in numerous buildings. There was community opposition, and academically it was not a desirable solution. Ultimately the application was withdrawn.

62. The Board finds that the University thoroughly analyzed all available sites for the location of the law school, that the Cassell Center site is the only appropriate site, and that the program and design will be compatible with the site and the adjacent neighborhood. Finally, the Board finds that the law school is not likely to be objectionable to neighboring properties because of noise, traffic, number of students or other objectionable condition.

63. The Office of Planning (OP), by reports dated July 5, and November 8, 1989 and testimony at the public hearing, recommended approval of the application, subject to certain conditions. OP noted that the University showed solid progress in translating the concerns of residents into concrete actions reflected in the revised Campus Plan. OP stated that the Agreement represents a unique development in Campus Plan cases which could serve as a model in the future.

64. The OP report noted with approval that while the number of students has decreased from more than 12,500 in 1978-79 to approximately 11,659 in 1988, the percentage of resident students has increased by 48 percent. OP recommended that the Board condition its approval upon the population caps set forth in the Agreement.

65. OP noted that open space on the campus totals 60.5 percent which will decrease by only 3.3 percent with construction of all facilities in the 1989 Plan. OP notes that the 1989 Plan proposes a reduction of 332,819 square feet from the 1987 Plan. OP further noted the Lighting Plan, Parking and Traffic Management Plan, Landscape Plan

and perimeter fence and requested that Board approval be conditioned on implementation of the foregoing. OP found that the floor area ratio of the entire University would be 0.64 with the construction of all facilities in the Plan, which is well within the maximum allowable FAR of 1.8. The Board so finds.

66. The Department of Public Works (DPW) submitted its report dated October 13, 1989. DPW noted that the Plan no longer proposes the closure of Reeves Gate, and concurred with the suggestion that Massachusetts Avenue be widened on the north side in the area of Glover Gate. DPW supported the following measures designed to address the impact of University traffic on nearby streets:

A. Perimeter fence designed to make parking on residential streets inconvenient.

B. Reallocation of parking spaces for improved utilization of existing facilities.

C. Population caps to control future growth, and emphasis on non-vehicular access to the campus.

D. Reestablish use of the Methodist Church parking lot.

67. Councilmember James Nathanson, Ward 3 representative, testified that the University had resolved many of the issues that were originally identified in the 1987 Plan except Parcel B and the location of the law school. Regarding Parcel B, Mr. Nathanson urged the Board not to accept houses in place of trees for buffering. Regarding the location of the law school, Mr. Nathanson noted that three-quarters of the surrounding neighbors recommended approval of the Campus Plan, including the law school located on the Cassell site. He stated that the Fort Gaines neighbors opposition to the law school was based at least in part on the fear of what the law school will be like on the site. Mr. Nathanson stated that what was being offered by the University was in fact the middle ground, and that he did not see a way of separating part of the law school, or other such compromise.

68. By letter dated October 13, 1989 and testimony at the hearing Advisory Neighborhood Commission (ANC) 3D advised the Board that it met and discussed the Plan on July 10 and 11, 1989, and again on October 10, 1989 and recommended approval of the Campus Plan as amended by the Agreement. ANC 3D first asked that Parcel B be rezoned from R-5-A to R-1-A. Second, the ANC asked that the Board redraw the boundaries of Parcel B to include and retain at least the twelve existing mature trees as well as an appropriate buffer area, that the University assume responsibility for

preservation, care and maintenance of the vegetation included in this newly formed boundary. Further, the ANC recommended that a covenant be recorded between the neighbors abutting Parcel B and the contract purchaser of Parcel B to include a landscape, grading and slope plan for Parcel B. The ANC also stated its recommendation in favor of the law school and other further processing applications (BZA Application No. 15109) and the Methodist Church parking lot application (BZA Application No. 15107). The ANC representative noted that while a portion of the campus is not included within the boundaries of ANC 3D, that is the Cassell site and areas north of Massachusetts Avenue, Fort Gaines residents were invited to the ANC 3D meetings, and that many did participate.

69. The President of Neighbors for a Livable Community (NLC), testified in support of the application. The representative testified that NLC was formed almost three years ago, specifically to assist the residents of the community to resist adverse impacts resulting from the growth of the University and other major real estate developments. He testified that NLC viewed the Board's letter of May 9, 1988 to the University as the Magna Carta for the community and its relationships with the University. He noted that the Board's letter directed the University to revise its proposed Campus Plan in a process that involved close participation with the community, and further directed the University to give specific attention to certain neighborhood concerns, and to remedy existing objectionable conditions. He noted that the letter set in motion a process which was both constructive and worthwhile. He stated that the Campus Plan had been revised substantially and was a great improvement over the 1987 Plan. NLC formally approved the Campus Plan with one exception, that the Board redraw the boundary of Parcel B to ensure that a greater portion of the existing buffer is preserved.

70. Regarding existing conditions, the NLC President stated that the University has undertaken certain steps to discourage traffic from the Fletcher Gate from going down Rockwood Parkway into the neighborhood. Further, the University agreed not to close Reeves Gate, and has agreed to create a traffic subcommittee to deal with many of the traffic and parking issues which could not be resolved in the Campus Plan process. He noted that the perimeter fence will have a very substantial positive effect on the problem of parking on the neighborhood streets. He further noted that the University has agreed to several changes in the lighting fixtures including shields, curtains, and other changes as set forth in the Agreement. He urged the Board to approve the Plan without delay in order to speed the process.

71. The NLC President identified several changes in the 1989 Campus Plan that vastly improved the Plan from the 1987 Plan. NLC approved the deletion of the parking garage, the Nebraska Hall addition, the down-sizing of the law school, and other changes set forth by the University. NLC noted the substantial improvement of moving the theater to the interior of the campus, although he noted their reservation about the possible impact of the 25,000 square foot addition to the Watkins-Kreeger Buildings. Finally, he noted the fact that the population cap is a very important issue to the neighbors.

72. The NLC President testified that the process of reaching agreement on the Campus Plan, and the Agreement itself, was a long and arduous one. The neighborhood groups maintained strong solidarity in presenting their positions to the University. This solidarity continued until the days immediately preceding the signing of the Agreement. At that time, the Fort Gaines Citizens Association indicated that they were not prepared to support the Plan or the Agreement because of the location of the law school on the Cassell Center site. He testified that the Fort Gaines residents had been active and full participants in the negotiations, and that the question of the location and design of the law school occupied more time in the meetings than any other issue. NLC reluctantly abandoned the solidarity position upon being notified of the untimely decision of the Fort Gaines neighbors. While all community groups participated in, and were involved in the entire Campus Plan process, with regard to the siting of the law school and the various design changes, NLC allowed the Fort Gaines Citizens Association and Fort Gaines residents to take the lead in these discussions.

73. Regarding the Parcel B issue, NLC does not feel that the boundary amendment, as presently drawn, adequately protects against conditons that are likely to be objectionable to residents on Glenbrook Road. NLC asked the Board to redraw the campus boundary to ensure that a greater portion of the existing buffer is preserved.

74. Finally, the NLC President stated that the architectural consultant representing the community had been retained by NLC and that at one point a Fort Gaines resident asked NLC if the Fort Gaines residents could consult with the architect with respect to the law school. NLC agreed, and agreed to pay the consultant for his time. The consultant later testified and confirmed that he reviewed the plans for the law school, and in his opinion, because of the geometry of the site, the topography and relationship of the site to Massachusetts Avenue, the University's proposal for the Cassell site is reasonable.

75. The President of the Spring Valley-Wesley Heights Citizens Association (SV-WHCS), testified in support. Spring Valley-Wesley Heights is comprised of over 1,200 households in Spring Valley and Wesley Heights, which neighborhoods surround the University on three sides. At a meeting held last June, the Association decided by unanimous vote to support the revised Campus Plan and to sign the Agreement between the University and the various community groups. He requested that the terms of the Agreement between the University and the groups be incorporated into the final Board order. Second, the Association asked that the deed conveying Parcel B contain restrictions on the proposed development and use of said property. Third, the Association stated its understanding that the question of whether any proposed building or addition is likely to be objectionable to neighboring residences will be open for investigation and determination in the further processing stage. Fourth, the Association stated its strong support for the population cap contained in the Agreement. Fifth, the Association noted that the University had agreed to new traffic and parking analysis to be done at the time of further processing. Sixth, the Association noted that Parcel B had previously served as a buffer, and that the Association endorsed the request of ANC 3D to redraw the boundary of Parcel B to preserve a greater portion of the existing buffer.

76. The SV-WHCS President testified that the University conducted a thorough analysis of the many different sites on the campus for the law school. He stated that the discussions and negotiating sessions which were had on this issue were led by the Fort Gaines neighbors. He stated that it was the commonly held assumption that the law school could be located on the Cassell site with the concurrence of the neighbors provided certain conditions were met. He stated that he understood there was agreement on the location and design of the law school. Notwithstanding the fact that ANC 3E, AU Park Citizens Association and the Fort Gaines Citizens Association did not sign the Agreement, it was requested that the Board require the University to comply with the provisions of Exhibit G of the Agreement to provide significant protections for the Fort Gaines residents. He observed that the Campus Plan was complex, and required careful attention to the interdependence and relationships between the components. All participants in the process strove to come up with the best possible plan and that plan is before the Board. No one has offered a feasible alternative.

77. The President of the Embassy Park Homeowners Association (EPHA) testified in support of the application. Embassy Park is a planned unit development of ninety townhouses in the vicinity of the Nebraska Avenue parking lot. The President of EPHA testified that he participated

in the long and complicated process that produced the revised Campus Plan. He noted his appreciation for the University's major deletions from the original Plan, in particular the Research Center, Nebraska Hall addition, and parking garage. Further, he noted that the down-sizing of the law school building and the various accommodations made in his view were most helpful to the Fort Gaines neighborhood.

78. Regarding the Nebraska Avenue parking lot, Embassy Park strongly supports the continued use of the Nebraska Avenue site for vehicular parking. During the process, alternate sites were thoroughly discussed, including the Nebraska Avenue parking lot. Having the law school on that site would have an impact on the Embassy Park neighbors and the Westover Place development. Further, the EPHA President noted that the law school located on Nebraska Avenue would destroy the University's goal of locating all commuting traffic on that parking lot.

79. A representative of the Westover Place Homeowners Association (WPHA), testified in support of the application. She testified that after numerous meetings with the University, Westover Place voted to sign the Agreement and support the Campus Plan with the exception of the boundary amendment.

80. A resident of 4443 Springdale Street, N.W. in Fort Gaines, testified in support of the University. He testified that he had lived in Fort Gaines since 1956 and that he really could not think of anything better than the law school to be located on the Caasell site. In conclusion, he testified that the Campus Plan that had been worked out in the extensive negotiations between the University and the neighbors will be beneficial to the community as well as the University, and that he believed that the law school located on the Cassell site would enure to the benefit of the residents by increased property values.

81. A resident of 3909 48th Street, N.W. in Spring Valley testified in support of the application. The resident testified that she attended the citizen meetings between the University and its neighbors, and that she supported the Campus Plan as amended by the Agreement. Further, she stated that in her opinion, the trees should be retained on the Cassell site, and that future facilities should receive the same close scrutiny by the University and the Board as did the law school.

82. A resident of 4119 45th Street, N.W. in Fort Gaines testified in support of the application. He testified that he and his family had been asked to sign a petition in opposition to the law school and Campus Plan. He stated

that in investigating the matter, he spoke with the Dean of the law school, reviewed the law school plans and the model, and came to the conclusion that he was fully in support of the position of the law school.

83. The Chairperson of Advisory Neighborhood Commission (ANC) 3E testified in opposition to the application. Specifically, ANC 3E opposes the location of the law school on the Cassell site. The ANC Chairman further testified that he opposed the Board's consideration of Application No. 15109 (further processing) because the location of the law school is contested by ANC 3E and others. He testified that the size of the building to the residential neighborhood of Fort Gaines, the number of users, and the resulting traffic were the problems identified by ANC 3E.

84. The Glenbrook Road Association (GRA), represented by counsel, filed a statement dated October 19, 1989 and testified at the hearing in opposition to only that portion of the Campus Plan which would delete Parcel B from the campus boundary. The GRA believes that the development of Parcel B by the contract purchaser would remove the buffer area that now exists and provides screening from the Arts Center, western roadway and parking area, and broadcast tower. The testimony of GRA and its landscape consultant focused on the impact on the existing trees of locating two houses on Parcel B. The GRA has a particular concern about twelve identified trees which it asserts are critical to the retention of an adequate buffer.

85. GRA's landscape architect testified that she based her analysis and conclusions on the Campus Plan and Phase I of the Landscape Plan. On cross-examination, the landscape architect stated that she had not reviewed Phases II and III of the Landscape Plan. GRA stated that while it opposed the boundary amendment, it would support deletion of a portion of Parcel B if the boundary line were redrawn to protect the 12 identified trees. Four people testified in support of GRA's position.

86. The Fort Gaines Citizens Association (FGCA) through its President and members filed statements and testified in opposition to the application. FGCA's primary objection to the Campus Plan is the location of the law school on the Cassell Center site. Although FGCA is a recently formed citizen organization (its first election of officers having occurred in the summer, 1989), the Board finds that based upon the evidence and testimony, many residents from Fort Gaines participated in the many meetings between the University and neighbors, including the drafting and revising of the Agreement and meetings to determine the Building Parameters, Lighting Plan and other controls.

87. The basis of FGCA's objection to the law school appears to be the size of the proposed facility and the impact on the streets of the adjacent neighborhood. FGCA stated that the Cassell site is too narrow to accommodate such a structure, that the building will be too close to the properties on Sedgwick Street, and that the perimeter fence and other parking control methods will not prevent University-related traffic and parking on residential streets.

88. FGCA hired an independent architect who testified that he was retained in October, 1989 to review the alternate sites and related materials to detemine whether another site would be feasible. The architect testified that based on a preliminary analysis of the alternative sites, Site 5 (Nebraska Avenue parking lot), Site 2 (President's Building), Site 1 (parking area adjacent to New Lecture Hall and Kay Spititual Center) and a combination of Sites 1 and 2 would be feasible alternate sites. He also criticized the law school plan. The Board finds that the plans reviewed and critized by him are not the plans under review by the Board, but instead are earlier versions which were completed prior to completion of all changes requested by Fort Gaines residents.

89. FGCA's architect stated that he had not contacted the University, its architects or any of the other consultants in preparing his analysis. The architect further stated that he had never designed a law school, that he had not attended any of the 100 meetings held in discussion of the siting and design of the building, and that he was unaware of the University or American Bar Association requirements for the law school. Finally, the architect conceded that the proposed law school building as viewed from Fort Gaines is significantly lower in height than the existing Cassell Building.

90. The AU Park Citizens Association (APCA) and Citizens for the Preservation of Residential Neighborhoods (CPRN) testified in opposition to the application. The opposition of AU Park and CPRN is based on the location of the law school on the Cassell Center site and the impact this will have on the adjacent Fort Gaines neighborhood.

91. A resident of 4404 Springdale Street, N.W., in Fort Gaines testified in opposition and entered a model in the record which demonstrated the relationship of the law school to the adjacent Fort Gaines neighborhood. The resident objected to the location, scale and design of the law school on the Cassell site.

92. A resident of 4401 Sedgwick Street, N.W. in Fort Gaines testified that he was closely involved in the meetings and negotiations on the Plan and the Agreement. He

stated that while the University was responsive to the neighbors in terms of the height of the law school building, he faulted the alternate site evaluation, the reluctance to design the facility in two structures, the traffic and parking in Fort Gaines and the refusal of the University to agree to a moratorium on any future development on the north side of Massachusetts Avenue until 2005.

93. Several letters in support and in opposition were received in the record. In addition, petitions were filed in opposition to the law school and the fence in the Fort Gaines neighborhood. The Board finds that the issues and opinions raised in these letters and petitions were presented to the Board in testimony, and are adequately addressed in this order.

94. The Board is extremely impressed with the process initiated by the University and undertaken by it and the surrounding neighbors and neighborhood groups. The University and its professional consultants, as well as the many neighbors who participated in this effort, are to be commended for the work involved and the resultant Campus Plan. In particular the Board notes the existence of the Agreement which is exhaustive in detail and evidences strong commitments from all parties. The Board will look to this Agreement and the process undertaken in this Campus Plan as a guide in future Campus Plan cases.

CONCLUSIONS OF LAW AND OPINION:

The Campus Plan is a master plan for the future use and development of the University's property. The planning is complex and must be viewed as a totality. Concerns about the design and other aspects of particular buildings are more appropriately addressed in the further processing stage. Toward that end, the Agreement provides a number of controls and parameters to guide the University through the implementation of its Campus Plan. In sum, the Board is satisfied that the Plan for which approval is sought is an appropriate solution to the needs of those concerned.

Because this case has a long and somewhat difficult history, the Board notes with approval the agreement of NLC, Spring Valley-Wesley Heights, Westover Place and Embassy Park Homeowners Association and ANC 3D to support the Plan and Agreement. The groups and individuals who objected to certain aspects of the Plan were unable to demonstrate an alternative plan that would accommodate the interests of the University and the community. As stated in the Findings, one area of objection is the location of the law school. However, the Board notes that the proposed Cassell site is the one site that offers the opportunity to improve upon existing conditions and increase the views from the community. This was the direct result of the input of the

community in the process of evaluating alternatives. Likewise, the concerns about the deletion of Parcel B must be viewed in the context of the substantial landscaping and screening offered to mitigate any adverse impact, and the further protection of the Building Parameters on the Watkins-Kreeger addition. Again, this was the direct result of dedicated work and compromise on the parts of the University and the community.

With regard to the further processing of the law school, trailers and additions to the Mary Graydon Center and Butler Pavilion (Application No. 15109), the Board concludes that the Applicant has satisfied its burden of proof, that the siting, design and uses are appropriate, and that where applicable, the Agreement will provide further assurances to the community.

As set forth in the Findings, ANC 3D supports the Plan and the further processing applications. The Board has no jurisdiction on the application for rezoning. The Findings fully describe the substantial efforts to buffer the remaining University property. The Board concludes that the Landscape Plan, Phase I, II and III, and Building Parameters will provide adequate protection to allow the deletion of Parcel B from the campus boundary. The Board notes that there was no objection regarding the deletion of Parcel A, that Parcel A has already been sold to the Government of South Korea, and that the boundary may be so amended without adverse impact. The Board concludes that it has given the required "great weight" to the position of ANC 3D.

The Board finds that it is not necessary to include the University President's house within the boundaries of the Campus Plan.

ANC 3E has stated its opposition to the application. The ANC has essentially one objection--the location of the law school on the Cassell site. The Board concludes that the alternate site analysis conducted by the University was exhaustive, and the subject of numerous discussions with the community. No alternate site location within the context of a Campus Plan as a totality was offered by those who opposed the Cassell site location.

Regarding the size of the proposed structure and the proximity of the building to the neighborhood, the Board has found that the siting and size of the building are appropriate, that the substantial use of below-grade space allows for improved views from the commumnity, as well as reduced light and sound, and that the controls placed on the design and use of the building will prevent objectionable impacts. The number of users was addressed by the Applicant and found by the Board to be an improvement over previous conditions. Traffic and parking were also addressed and

found to be adequate with the restrictions on the users of the law school parking lot, the reserved spaces in the Nebraska Avenue lot, and the perimeter fence. Finally, the Board notes that in the Fort Gaines area, 220,000 square feet of gross floor area has been deleted from the Plan to accommodate the interests of the community.

The Findings set forth the response to the stated objections of the ANC. In conclusion, the Board has determined that the proposed site, design and use of the law school are appropriate and not likely to create objectionable impacts. The Board has given the required "great weight" to the position of ANC 3E.

Based on the record, the Board concludes that the Applicant is seeking a special exception, the granting of which requires compliance with the requirements of Paragraph 3108.1 and that 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 of proof. The Applicant has addressed the issues of noise, traffic, number of students, or other objectionable conditions. The Board concludes that the use is located so as not to become objectionable to neighboring property, subject to the conditions contained in this Order. The total bulk of all buildings and structures on the campus does not exceed the gross floor area prescribed for the R-5-B District. The Applicant has submitted a plan for developing the campus as a whole, and has met its burden of proof with regard to the further processing applications of the law school, additions to the Mary Graydon Center and Butler Pavilion and temporary trailers.

The Board concludes that it has accorded to Advisory Neighborhood Commissions (ANC) 3D and 3E the "great weight" to which they are entitled. Accordingly, it is ORDERED that the applications are GRANTED, SUBJECT to the following CONDITIONS:

1. Approval of the Campus Plan shall be through the year 2000.

2. The Plan shall be as shown in the revised Campus Plan 1989-2000, and marked as Exhibit No. 123-A in the record.

3. The boundaries of the University are amended to delete Parcels A and B as shown in the Plan and marked as Exhibit No. 123-A, Section V of the record.

4. The University shall submit to the Board, as a special exception, each individual request to construct a building. Along with each request, the University shall submit information as to how the particular request complies with the Plan.

5. The terms and conditions of the Agreement marked as Exhibit No. 196 of the record, between the community groups and the University dated July 11, 1989, including the provisions of Exhibit G to the Agreement, are incorporated in this order as though fully set forth herein and shall be enforceable in the same manner as any other condition contained in an order of this Board.

6. Approval of the facility for the Washington College of Law, additions to the Mary Graydon Center and Butler Pavilion and temporary trailers as requested in Application No. 15109 shall be consistent with the Plans submitted as Exhibit No. 24-A and B.

7. On-site parking for the law school shall be provided as shown on the plans marked as Exhibit No. 24-A of the record. Use of on-site parking spaces shall be restricted to faculty, staff and handicapped parking. The University shall reserve 215 spaces at the Nebraska Avenue parking lot for the exclusive use of law school students.

VOTE: 5-0 (William Ensign, Charles R. Norris, Paula L. Jewell, William F. McIntosh and Carrie L. Thornhill to grant).

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

ATTESTED BY: _____
EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: FEB 21 1990

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "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.

14640&15109order/LJP57

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

APPLICATION No. 14640, 15109 & 15107

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a letter has been mail to all parties, dated _____, and mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

1. Whayne S. Quin, Esquire
   Wilkes, Artis, Hedrick & Lane
   1666 K Street, N.W., Suite 1100
   DC 20006

2. Joseph D. Murphy, Chairperson
   Advisory Neighborhood Commission 3-D
   P.O. Box 40846, Palisades Station
   Washington, D. C. 20016

3. Paul Strauss, Chairperson
   Advisory Neighborhood Commission 3-E
   P.O. Box 9953, Friendship Station
   Washington, D. C. 20016

4. Robert E. Herzstein
   Neighbors for a Livable Community
   4710 Woodway Lane, N.W.
   DC 20016

5. Alan M. Pollock
   4428 Sedgwick St., N.W.
   DC 20016

6. Frederick Allen, President
   Spring Valley Wesley Heights Citizens Assn.
   3880 University Avenue, N.W.
   DC 20016

7. John P. Brown
   Embassy Park Condominium
   4230 Embassy Park Drive., N.W.
   DC 20016

8. Stanley Baum
   4443 Springdale Street, N.W.
   DC 20016

9. Barbara T. Yeomans
3909 - 48th St., N.W.
DC 20016

10. Charles Schulze
4119 - 45th St., N.W.
DC 20016

11. Carolyn Carr
Westover Place Community Assn.
4376 Westover Place, N.W.
DC 20016

12. Glenbrook Road Association
c/o Richard B. Nettler, Esquire
Gordon, Feinblatt, Rothman, Hoffberger & Hollander
1800 K St., N.W., Suite 600
DC 20006

13. John E. Montel, President
Ft. Gaines Citizens Assn.
4447 Springdale St., N.W.
DC 20016

14. Dr. Cyril Ponnamperuma
4452 Sedgwick St., N.W.
DC 20016

15. Michael Wolf
Citizens for Preservation of Residential Neighborhoods
4532 - 43rd St., N.W.
DC 20016

16. Edward Flattau
4532 Van Ness St., N.W.
DC 20016

17. Betty Sheffield
4412 Springdale St., N.W.
DC 20016

18. Mary Jo Boya
4437 Sedgwick St., N.W.
DC 20016

19. Dr. M.S. Esfandiary
4401 Sedgwick St., N.W.
DC 20016

20. Michael Geglia
American University Park Citizens Assn.
4712 Elliot St., N.W.
DC 20016

21. James & Eugenia Langley
    4404 Springdale St., N.W.
    DC 20016

22. Rosa L. Sumpter
    4416 Sedgwick St., N.W.
    DC 20016

23. Faith Burton
    Ft. Gaines Citizens Assn.
    4441 Sedgwick St., N.W.
    DC 20016

24. Jill Abeshouse Stern
    4840 Glenbrook Rd., N.W.
    DC 20016

EDWARD L. CURRY
Executive Director

DATE: FEB 21 1990