GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16565 of Georgetown University, pursuant to 11 DCMR § 3104.1, for a special exception under section 210 for the further processing of an approved campus plan to permit an addition to the existing St. Mary's Hall building, renovate entrances to the building, and redesignate the use category of the building from residential to mixed use in an R-3 District at premises 3800 Reservoir Road, N.W. (Square 1321, Lot 1).

HEARING DATES: April 18, 2000; May 10, 2000; May 16, 2000

DECISION DATE: June 7, 2000

DECISION AND ORDER

After hearing, the Board of Zoning Adjustment approved in part Georgetown University's application for the further processing of its 1990 campus plan to permit an addition to St. Mary's Hall and the renovation of the building entrances. The Board denied the application in part as to the proposed redesignation of the use category of the building from residential to mixed use and as to any renovations that would permanently preclude residential use of the building. The Board determined that such relief could not be granted in the absence of an amendment to the campus plan, which the applicant had not sought.

Preliminary and Procedural Matters

Application. Georgetown University, represented in these proceedings by ShawPittman, filed an application with the Board of Zoning Adjustment on January 31, 2000, pursuant to 11 DCMR § 3104.1, 46 DCR 7853 (1999), for a special exception under 11 DCMR § 210 (1995) for the further processing of the previously approved 1990 - 2000 Georgetown University campus plan (the 1990 campus plan).[1] The requested special exception would permit a change in the use designation of St. Mary's Hall from residential to mixed use, the construction of an addition of 427 gross square feet, and the renovation of building entrances.

The University also filed at the same time an application for the approval of the Georgetown University Campus Plan for Years 2000 – 2010, BZA Application No. 16566. The University requested that the St. Mary's Hall application be heard separately from its campus plan application due to the nature of the proposed addition, the University's need to start construction as soon as possible, and its perception, which turned out to be mistaken, that the application would be noncontroversial.

[1] The 1990 campus plan was approved in BZA Application No. 15302.

Pursuant to Board practices relating to campus plans, neither application was accompanied by a self-certification form or a memorandum from the Zoning Administrator certifying the required zoning relief.

Notice of Application and Notice of Public Hearing. By memoranda dated February 4, 2000, the Office of Zoning advised the D.C. Office of Planning, the Zoning Administrator, the Department of Public Works, and Advisory Neighborhood Commission (ANC) 2E, the ANC for the area within which the subject property is located, of the application.

The Board scheduled a public hearing on the application for April 18, 2000. Pursuant to 11 DCMR § 3113.13, the Office of Zoning, on March 2, 2000, mailed the applicant, the owners of all property within 200 feet of the subject property, and ANC 2E notice of the hearing. Notice of hearing was also published in 47 DCR 1508 (Mar. 10, 2000). The applicant's affidavits of posting and maintenance indicate that beginning on March 31, 2000, zoning posters were placed and maintained on the Canal Road, 37th Street, and Reservoir Road frontages of the subject property, as well as at St. Mary's Hall, in plain view of the public.

Requests for Party Status. (1) Cloisters in Georgetown Home Owners Association (Cloisters East), an association that represents the owners of 32 homes and/or lots located along Reservoir Road, 35th Street, and Winfield Lane near the campus and St. Mary's Hall, requested party status to oppose the application. Cloisters East feared that if the St. Mary's Hall use designation were changed from residential to mixed use, its members would suffer adverse impacts from added pressure for off-campus housing.

(2) Burleith Citizens Association, representing a community of approximately 550 single-family row houses located immediately across Reservoir Road from St. Mary's Hall, also requested party status to oppose the application. The Association was concerned that the proposed change in the use of St. Mary's Hall, without an amendment to the housing provisions of the 1990 campus plan and outside of the context of the new campus plan application, would adversely impact the neighborhood. With approximately 538 undergraduate students living in Burleith, the Association asserted that every block in its neighborhood is already impacted by student group house rentals.

(3) Cloisters West Homeowner's Association (Cloisters West), representing the owners of 109 homes immediately adjacent to St. Mary's Hall and the surrounding area, filed a request for party status to support the application on April 13, 2000, five days before the hearing. The Board waived its filing deadline to accept the request, since the waiver would not prejudice the parties. Cloisters West asserted that its members would benefit from the removal of student housing from areas close to the campus boundaries.

The Board granted Cloisters East, Burleith Citizens Association, and Cloisters West party status under 11 DCMR § 3106.3. Due to their proximity to St. Mary's Hall, the members of these associations would likely be more significantly impacted by the application than persons in the general public.

(4) The Georgetown Residents Alliance (GRA), an entity opposed to the application, requested party status on April 5, 2000, one day late. The Board waived its filing deadline to consider the request. GRA is a civic association with more than 250 members who reside in Georgetown, including members who reside in close proximity to the University. Its primary objective is to preserve the character of Historic Georgetown as a pleasant and safe place to live. GRA argued that the requested change in the use designation of St. Mary's Hall would result in more students living in off-campus rental housing, with the attendant problems of noise, litter, and disturbance of the peace. GRA asserted that it was requesting party status because "everybody in Georgetown" would be affected. The Board denied GRA's request, finding that GRA did not show, as required by 11 DMCR § 3106.3, that either GRA or its members would likely be more significantly, distinctively, or uniquely affected by the application than persons in the general public. The Board also denied GRA's motion for reconsideration, finding that GRA had not identified any compelling legal or factual reasons that would require the reversal of the Board's earlier decision denying party status.

Motion to Consolidate the Further Processing Application with the Application for Campus Plan Approval. The Burleith Citizens Association and Cloisters East[2] argued that the proposed change in use designation of St. Mary's Hall would require an amendment to the campus plan, such that the University's separate applications for further processing and campus plan approval should be consolidated. The University opposed the motion, arguing that it did not wish to delay construction. The 1990 campus plan does not expire until December 31, 2000. The Board denied the motion on the grounds that the University is entitled to file a further processing application as long as there is an approved campus plan in place.

Applicant's Case. The applicant provided testimony and evidence from Linda Greenan, Assistant Vice President for External Affairs at Georgetown University, and H. Alan Brangman, University Architect and Director of Facilities Planning.

Public Agency Reports. The Office of Planning (OP) submitted a report dated April 13, 2000, recommending that the application be approved. OP found that that proposed construction would not likely become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions. It concluded that the application would maintain the educational mixed-use designation for St. Mary's Hall under the current approved campus plan and that it would meet the criteria for approval under the Zoning Regulations and the Comprehensive Plan. Community planner Mary Vogel presented the OP report.

The District of Columbia Fire and Emergency Medical Service Department reported on April 5, 2000, that it had no objection to the proposal.

The Commission of Fine Arts, in a letter dated March 17, 2000, stated that it had no objection to the concept design for the proposed alterations.

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[2] The motion to consolidate was filed by GRA, Burleith Citizens Association, Cloisters East, and Foxhall Community Citizens Association. While the Board's Rules of Practice and Procedure do not address motions, the Board's practice is to permit parties only to file motions.

ANC Report. The ANC report, dated April 7, 2000, indicates that at a duly noticed meeting with a quorum present, ANC 2E determined to take no action on the application.

Parties and Persons in Support of the Application. Cloisters West, represented by Sidney D. Spencer, supported the application. Cloisters West does not want to see St. Mary's Hall returned to dormitory use. It finds educational and administrative uses preferable, since the building would be active during the daytime, there would not be a lot of students hanging around, and it would not serve as a student activity place on the weekend. Cloisters West submitted 17 form letters from its members in support of the application.

Eleven adjacent and nearby property owners also submitted supporting letters. In general, they were concerned that dormitory use of St. Mary's Hall would result in increased noise, auto and pedestrian traffic, and late night and weekend commotion. They believe that the University should locate its dormitories at a distance from any neighboring residential areas.

Parties and Persons in Opposition to the Application. Cloisters East, represented by Barbara Zartman and Don W. Crockett, opposed the application as contrary to the 1990 campus plan provisions requiring the University to provide 925 new beds on-campus and on the grounds that it would add to traffic congestion and the pressure for off-campus student housing. Cloisters East argued that the approval of the conversion of St. Mary's Hall in this further processing case would foreclose the consideration of better options for the building in the context of the entire campus plan.

Burleith Citizens Association, represented by Patricia Scolaro, opposed the application on the grounds that changing the use designation of St. Mary's Hall would be inconsistent with the 1990 campus plan. The Association argued that the proposed change would result in an increased need for off-campus student housing, negatively impacting the Burleith neighborhood.

Bonnie Hardy, a Burleith resident, opposed the application. She stated that the St. Mary's Hall use designation should be considered in the context of the University's campus plan application, together with its request for a 500-student increase in enrollment. She also provided testimony regarding adverse impacts associated with off-campus housing.

Guy Gwynne, president of the D.C. Federation of Civic Associations, appeared in opposition to the application on behalf of the Federation and its consortium of communities impacted by universities. The Federation asserted that the Burleith neighborhood should be considered destabilized, since 170 to 200 of its 540 houses are rented out to students. The Federation argued that the Board should consider the University's plans for St. Mary's Hall in the context of the new campus plan application.

Don W. Crockett testified on behalf of the Georgetown Residents Alliance. GRA argued that the proposed change in use of St. Mary's Hall should not be considered in isolation from the campus plan, since the use to which the building is put will affect uses and activities at all other campus locations. GRA argued that contrary to its commitment under the 1990 campus plan to

provide 925 new beds by 1997, the University had not provided any new beds. GRA also asserted that off-campus housing was having a detrimental effect on the adjacent neighborhoods.

Closing of the Record. The record was closed at the conclusion of the hearing on May 16, 2000, with the exception of materials specifically requested by the Board and the parties' proposed findings of fact and conclusions of law.

Decision Meeting. At its decision meeting on June 7, 2000, the Board, by a 5 – 0 vote, granted the application in part to permit the construction of the proposed addition and the renovation of the building entrances. The Board, voting 4 – 1, denied the application with respect to the proposed redesignation of the St. Mary's Hall use category and any renovations that would permanently preclude use of the building for dormitory space.

FINDINGS OF FACT

The Subject Property and Surrounding Area

1. St. Mary's Hall, the building that is the subject of this application, is located on Lot 1 in Square 1321 on the Georgetown University campus, at premises 3800 Reservoir Road, N.W., in an R-3 Zone District.

2. St. Mary's Hall is an H-shaped building located in the northeast corner of the campus. It is bounded on the north by Reservoir Road, on the east by the Cloisters West townhouse development, on the south by the Georgetown University campus, and on the west by the Georgetown University campus/medical center.

3. St. Mary's Hall was constructed in 1959 as a residence hall for the University's nursing school. It is a four-story brick and concrete building, 81,329 square feet in size, with a full basement.

4. The building is presently in a poor state of repair. The University decommissioned St. Mary's Hall as a dormitory in 1996 following a structural engineering analysis that showed that the residential portion needed significant upgrading, moving the 217 residents to the adjacent Darnall Residence Hall. At the time of the hearing, the second, third, and fourth floors, approximately 40 percent of the building, were vacant. The remaining space was being used for the nursing school, student volunteer programs, the employee credit union, and campus retreat programs. There was also some medical center office space in the basement.

The Proposed "Further Processing" Special Exception

5. If the application is granted, St. Mary's Hall would no longer be designated for residential use.

6. The University proposes to continue to house the nursing school and the employee credit union at St. Mary's Hall. The University's Information Technology Department (IT Department) would use the remainder of the building for its administrative offices, teaching laboratories, and computer support services. The IT Department is currently housed in 14 other locations on campus.

7. The nursing school and IT Department would split the occupancy of the basement floor. The nursing school, along with a series of classrooms as well as the entrance for the IT Department, and the employee credit union would occupy the first floor. The second floor would be dedicated entirely to the nursing school, while the third and fourth floor would be dedicated entirely to the IT Department.

8. The proposed 427 square foot addition consists of two new entrance vestibules: a main entrance on the Reservoir Road side for the nursing school, a side entrance on the western façade for the IT Department, new entry canopies, and a balcony addition.

9. The proposed renovations consist of a full interior gut of the building, including removal of the existing dormitory rooms; renovations to bring all interior space up to current Americans with Disabilities Act and building code requirements, including new stairs and elevators; and general improvements to the heating, ventilation, air conditioning, plumbing, and electrical systems. The University also plans to replace all the windows and improve site landscaping.

10. The University has not sought an amendment to the campus plan to accomplish the requested redesignation of the St. Mary's Hall use category.

The 1990 Campus Plan: Compliance with its Provisions and Consistency of the Application with its Provisions

11. The pertinent provisions of the Board's order in Application No. 15302 approving the University's 1990 campus plan include Findings of Fact Nos. 17, 21, 22, 23, 24, 40, 44(g), 50(c), 52(a), 54, 55, and 66(b), (c), and (n) and Conditions Nos. 4(b) and 5 (incorporating by reference Appendix H to the 1990 campus plan, the University's undergraduate housing program).

12. As described in Finding No. 17 in the Board's order in BZA Application No. 15302, the 1990 campus plan establishes several land use categories, including "Educational – classrooms, administrative and faculty offices" and "Educational mixed use – residential, education, decentralized recreation."

13. The 1990 campus plan designates St. Mary's Hall for educational mixed use. The 1990 campus plan land use maps, exhibit 4 to the Applicant's Pre-Hearing Statement, show both the existing and future use of St. Mary's Hall as educational mixed use, with hatch marks designating the building as a student residence area.

14. Under Condition No. 4(b) of the Board's order in BZA Application No. 15302, as a condition of filing a special exception application for each structure or addition to an existing structure that the University proposes to construct over the life of the 1990 campus plan, the University must demonstrate compliance with applicable provisions of the plan and provide an update on the University's progress in carrying out its housing program under Appendix H.

15. Condition No. 5 of the Board's order in Application No. 15302 states:

> The Housing Program described in Appendix H to the Campus Plan is incorporated in this Order and these conditions as though fully set forth herein, and shall be enforceable in the same manner as any other condition contained in this Order. That housing program includes the cap on the increase in undergraduate enrollment of 340 FTE undergraduates as set forth herein, the University's commitment to provide new beds on campus, and the new Director of Off-Campus Student Affairs program. Further, any actual increase in undergraduate enrollment shall be conditioned upon and subject to the provision by the University of additional beds on campus to accommodate that increase. The University may provide beds by (1) moving graduate students and faculty off campus; (2) rehabilitation of existing buildings; or (3) construction of new dormitories. The number of new students admitted to the University pursuant to the authorized increase in enrollment shall not exceed the number of additional beds that the University shall have provided for occupancy before the start of any academic semester. Further, until all Freshmen and Sophomores live on campus, no students shall be admitted to the University pursuant to the authorized increase in enrollment.

16. With respect to Conditions Nos. 4 and 5, the Board finds that the University is within the 1990 campus plan undergraduate enrollment cap. The University also established the Off-Campus Student Affairs program.

17. As provided in Appendix H, the University adopted as a long-term goal the ability to house 100 percent of its undergraduate students on campus. It also committed to provide 925 new beds on campus by 1997.

18. The University presently has about 6,300 undergraduates, 5,516 of whom it considers "traditional" or full-time equivalent (FTE) undergraduate students as defined in Finding No. 19 in the Board's order in BZA Application No. 15302. About 78 percent of the traditional undergraduates are presently housed on campus. With the Southwest Quadrangle dormitory, projected to open in 2002, about 92 percent of the traditional undergraduates would be housed on campus.

19. With respect to Condition No. 5, the Board finds as follows: When the 1990 campus plan was approved, St. Mary's Hall was a dormitory with 217 beds.[3] Appendix H to the 1990 campus

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[3] At the hearing, the University's witnesses both stated that when St. Mary's was decommissioned as a dormitory in 1996, there were 217 students living in the building. Tr. at 35, 39, 51 (Apr. 18, 2000). The written materials

plan also indicates that St. Mary's Hall could be reconstructed to provide an additional 200 beds, for a total of 417 beds.

20. The University had identified the proposed reconstruction of St. Mary's Hall to provide an additional 200 new beds as one of three measures it could take to meet its commitment under the 1990 campus plan to provide 925 new beds by 1997. The two other measures were the rehabilitation of the Loyola, Xavier, and Ryder dormitory to create 225 new beds and the construction of a new dormitory to create 500 new beds. Appendix H also provided that the University could consider other options for increasing on-campus housing stock, as long as 925 new beds were provided. In addition, as an interim measure to house more undergraduates on campus until the 925 new beds were in place, the 1990 campus plan provided for moving 200 graduate students off-campus to make room for 200 undergraduates to live on-campus. The parties in opposition to the application referred to this element of the plan as the "switched heads" provision, since it did not provide any new beds, but merely switched the heads resting on the on-campus bed pillows from those of graduate students to those of undergraduates.

21. With respect to the University's commitment to provide 925 new beds by 1997, the Board finds as follows: First, under Appendix H, the "switched heads" are not treated as counting towards the 925 new bed commitment. For example, under Goal #4, the University committed "to a policy change to move graduate students off campus to accommodate incoming undergraduate students until the new dormitory beds are in place to address the needs of the undergraduates." Under the discussion of increasing the supply of beds on campus in section IV, proposed University programs, the switch is described as an "interim measure" until the 925 new beds are provided. Finding No. 24 in the Board's order in BZA Application No. 15302 also treats the University's commitment to replace 200 graduate students living on-campus with undergraduates as distinct from and additional to the University's 925 new bed commitment. Therefore, the Board finds that these 200 beds should not be counted in measuring the University's compliance with the 925 new bed commitment.

22. Second, the residential portion of St. Mary's Hall is presently vacant. The University does not plan to replace the 217 beds at St. Mary's Hall, nor to add the proposed 200 new beds as identified in the 1990 campus plan.

23. Third, the rehabilitation of the Loyola, Xavier, and Ryder dormitory provided 216 new beds.

24. Fourth, the Southwest Quadrangle dormitory, which will provide 780 new beds, 280 more beds than contemplated in the 1990 campus plan, and which was approved in 1998 in BZA Application No. 16427, is still in the pre-construction phase.

25. Fifth, the University has made some gains in increasing the number of beds at other residential facilities, which gains are partially offset by losses at still other facilities. Using the University's figures minus the 200 switched heads, as of the year 2000, the University has only

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provided by the applicant, however, state that St. Mary's provided dormitory space for 215 beds. The Board finds that St. Mary's provided space for 217 beds.

gained 103[4] new beds toward its commitment to provide 925 new beds. Using the figures proffered by the opponents, the University has only gained 93 new beds. Under either set of figures, the University has fallen far short of its commitment to provide 925 new beds by 1997.

26. Finally, the University made its housing commitment contingent on bond money, alternate financing, and construction of a proposed cogeneration facility. The University did not obtain the alternate financing and the cogeneration facility was not built.

27. The Board finds that the University's housing program, including the on-campus housing inventory, is an integral part of the 1990 campus plan. It seeks to prevent and mitigate the adverse effects on neighboring residential communities associated with large numbers of students living in off-campus housing, including noise, traffic, parking, and other objectionable conditions.

28. The neighboring residential communities continue to experience adverse impacts from the number of students living off-campus, including noise from raucous parties, loud music, and rowdy students returning from Georgetown drinking establishments; traffic congestion; a shortage of on-street parking spaces; large amounts of loose trash and garbage placed in the alleys behind student group houses; unkempt yards; littering; disturbance of the peace; and vandalism and property destruction.

29. With the University having fallen far behind in its commitment to provide 925 new beds by 1997 under the existing campus plan, the Board finds that any loss of potential on-campus housing sites will only serve to exacerbate the adverse impacts that have resulted from the number of students living off-campus.

Objectionable Conditions Associated with the Proposed Addition and Building Entrances

30. The proposed size and design of the addition and building entrances, as well as general interior improvements and renovations that do not permanently preclude use or reconstruction of the building for dormitory space, would not result in an increase in the number of students nor adversely affect neighboring property due to noise, traffic, parking, or other objectionable conditions. The exterior renovations and proposed landscaping improvements, which would enhance the outside appearance of the building, would not result in any objectionable conditions.

31. The University has in place a transportation management program and an approved parking cap. The University does not propose any changes to its existing roadways, access, or parking facilities in connection with this application. The proposed addition and building entrance renovations would not result in any adverse traffic or parking impacts.

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[4] As discussed in footnote no. 3, the University's figures show St. Mary's Hall with 215 beds. If St. Mary's Hall provided space for 217 beds, as the Board has found, then the University would have only gained 101 new beds; or, under the opponent's calculations, 91 new beds.

The Policies of the District Elements of the Comprehensive Plan and Harmony with the Zoning Regulations and Maps

32. The Ward 2 Element of the Comprehensive Plan in 10 DCMR § 1342.1(b) (1999) calls for enforcing "Georgetown University's commitment to the surrounding neighborhood to move student residences and university offices out of the local community and onto the campus." The Board finds that the proposed redesignation of the St. Mary's Hall use category would undermine the policies of subsection 1342.1(b).

33. The R-3 District is designed for row dwellings. To preserve a family-life environment, section 320 of the Zoning Regulations permits the same uses as those in R-1 Districts. Under section 322, college and university uses may be permitted when approved as a special exception, subject to the conditions provided in section 210. The addition and building entrance renovations proposed in this application meet the area restrictions of the Zoning Regulations. However, the Board finds that as a result of the adverse impacts identified in this decision that have resulted from the University's failure to meet its housing commitments under the 1990 campus plan, the proposed redesignation of the St. Mary's Hall use category would not be in harmony with the general purposes and intent of Zoning Regulations to preserve a family-life environment in the R-3 District.

The Floor Area Ratio Limit for the Campus as a Whole

34. The existing gross floor area of the campus buildings is 4,906,634 square feet. The 427 square foot addition would increase the gross floor area to 4,907,061 square feet. The existing floor area ratio is 1.12. After the addition, it would still be 1.12, well-within the permitted floor area ratio limit of 1.8 for the campus as a whole.

CONCLUSIONS OF LAW AND OPINION

The Board is authorized under the Zoning Act of June 20, 1938 (52 Stat. 797, as amended; D.C. Code § 5-424(g)(2) (1994)), to grant special exceptions as provided in the Zoning Regulations. Georgetown University applied under 11 DCMR § 3104.1 for a special exception under 11 DCMR § 210 to change the use designation of St. Mary's Hall from residential to mixed use and to construct an addition to the building and renovate its entrances. The notice requirements of 11 DCMR § 3113 for the public hearing on the application have been met.

Under section 210 of the Zoning Regulations, applicable in an R-3 District through section 322, college and university uses are permitted in residential districts by special exception. The Board may grant a special exception "where, in the judgment of the Board, those 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." 11 DCMR § 3104.1. In order to grant a special exception to permit a university use in a Residence District, the Board must find that the proposed use is not likely to become objectionable to neighboring

property because of noise, traffic, number of students, or other objectionable conditions. *Id.* § 210.2.

In addition to applying to the Board for review and approval of each proposed building or use, universities are required to submit for approval a development plan for the campus as a whole. 11 DCMR § 210.4(d). As with special exception approval for a specific building or use, approval of a campus plan is predicated on the Board's finding that the uses enumerated in the plan are not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions, and in residential districts, that they will not "result in excessive density or unreasonable campus expansion." *Levy v. District of Columbia Bd. of Zoning Adjustment,* 570 A.2d 739, 740 (D.C. 1990).

After a campus plan has been approved, subsequent applications to permit the construction or use of a specific building are designated applications for the "further processing" of a campus plan. A university is entitled to have its further processing applications reviewed under an existing campus plan until that plan expires.

However, where the proposed further processing would result in a substantial change in the nature of the use of a building and its relationship to the surrounding neighborhood, a university must also file for an amendment to its campus plan. *See Marjorie Webster Junior College, Inc. v. District of Columbia Bd. of Zoning Adjustment,* 309 A.2d 314, 317 (D.C. 1973). Noting that "It would surely contravene the regulatory scheme for the BZA to approve a building plan, even one with broad outlines, but then grant future special exception applications for specific buildings inconsistent with the plan," the Court of Appeals has held that a university may not make any improvements that are inconsistent with an approved campus plan unless it first obtains the Board's approval of an amendment to the plan. *Levy,* 570 A.2d at 749. The application for an amendment to the campus plan is also reviewed and approved as a special exception. *Marjorie Webster,* 309 A.2d at 317.

In addition, the Board is required under D.C. Code § 5-412.4 (1994) to give OP recommendations "great weight." The Board carefully considered OP's report, but for the reasons stated in this decision, does not agree that application would maintain the existing use designation of St. Mary's Hall, since it would eliminate residential use of the building. Moreover, the Board does not agree that the application would fulfill the policies of the District Elements of the Comprehensive Plan in that the proposed redesignation of the use category would undermine 10 DCMR § 1342.1(b), which calls for enforcing the University's commitment to move student residences out of the local community and onto the campus.

The Board is also required under D.C. Code § 1-261(d) (1999) to give the affected ANC's recommendation "great weight." ANC 2E determined not to make a recommendation in this case. The Board is therefore unaware of any specific issues or concerns that ANC 2E may have had with respect to this application and unable to afford ANC 2E the great weight to which it is entitled.

Based upon the findings of fact and having given great weight to the OP report, the Board concludes that the proposed redesignation of the use category of St. Mary's Hall does not meet the requirements of the Zoning Regulations. The 1990 campus plan does not contemplate a change in use for St. Mary's Hall. The University has fallen far short of its 1990 campus plan commitment to provide 925 new beds on campus by 1997, and the adjacent and nearby property owners continue to be adversely affected by the number of students living off-campus and the associated noise, parking, garbage and trash, and vandalism conditions described in this decision. If the residential use designation were removed as proposed by the applicant, it would result not only in the loss of the existing 217-bed capacity at St. Mary's Hall, but also in the loss of the potential under the 1990 campus plan to provide an additional 200 beds through reconstruction. The proposed redesignation of St. Mary's Hall and its removal from the University's housing inventory would thus constitute a substantial change in the nature of the use of the building and its relationship to the surrounding community as contemplated and approved in 1990 campus plan. Such a result requires an amendment to the campus plan. *See Marjorie Webster,* 309 A.2d at 317.

It does not matter for purposes of this application that the University made its housing commitment contingent upon obtaining alternate financing or the approval and construction of its proposed cogeneration facility. The timely provision of sufficient on-campus housing to prevent and mitigate adverse impacts on the surrounding residential community from the number of students living off-campus was a critical element of the 1990 campus plan approval. If the University was unable to finance the housing program so as to meet its housing commitments in a timely manner, then the University should have sought an amendment to its campus plan that would have addressed its change in circumstances. Such an application would have established new goals, policies, commitments, and timelines to enable the University to meet its long term goal of housing 100 percent of its undergraduate students on campus and to prevent and mitigate the adverse impacts on neighboring property owners. In any event, the Board's determination that an amendment is required is not based upon the University's failure to comply with this condition, but upon the impact of that failure on the adjacent residential community.

The University argues that if it were not adding 427 square feet to St. Mary's Hall, the proposed change in use designation would not trigger any further processing since the building would remain "educational mixed use." The Board does not agree. The proposed change in use designation is plainly inconsistent with the present campus plan which designates St. Mary's Hall for educational mixed use, a land use category consisting of residential, education, and decentralized recreation uses, and which maps the building as a "student residence area." If the residential use were removed, the building would more appropriately fall into the "education" category which consists of classrooms and administrative and faculty offices. Moreover, the University's housing program and its housing inventories are integral components of the 1990 campus plan. Given the substantial impact the housing program has on the neighboring residential community, the proposed change even without the addition would necessitate a campus plan amendment. *See Marjorie Webster*, 309 A.2d at 317.

The University also asserts that the existing residential use of St. Mary's Hall is no longer needed, since the Board recently approved the Southwest Quad dormitory project which will

house 780 students. The 1990 campus plan required the University to provide 925 new beds by the fall of 1997. As of the hearing on this application, nearly three years after the 1997 deadline, the University had provided at most 103 new beds. The University does not anticipate completion of the Southwest Quad dormitory for another two years. The Board concludes that the proposed redesignation of the use of St. Mary's Hall, in light of the University's delayed progress in meeting its housing commitment, is inconsistent with the 1990 Campus Plan. While the removal of the residential use designation might ultimately benefit those neighboring properties closest to St. Mary's Hall, the proposed redesignation cannot be approved in the absence of an amendment to the campus plan. *See Levy,* 570 A.2d at 749.

The Board therefore denies the applicant's request to change the St. Mary's Hall use designation from residential to mixed use. The Board also denies the University's application insofar as it pertains to any renovations of St. Mary's Hall that would result in the permanent elimination of existing dormitory space for 217 beds or the permanent elimination of any potential to reconstruct St. Mary's Hall to provide dormitory space for an additional 200 beds.

The Board approves the improvements to St. Mary's Hall, including bringing the building up to Americans with Disabilities Act and building code requirements, the addition at the front and side entrances, and the exterior work to replace the windows and the site landscaping, provided such improvements do not result in the permanent elimination of existing or potential dormitory space. Based upon its findings of fact, the Board concludes that such improvements would not result in objectionable noise, traffic, or parking conditions or other objectionable conditions.

For the reasons stated above, the Board concludes that the applicant has met its burden of proof as to the addition and the renovation of the building entrances, but has not met its burden of proof as to the proposed change in the St. Mary's Hall use designation and any related renovations. It is hereby **ORDERED** that the application is **GRANTED IN PART** as to the addition of 427 square feet and the renovations of the building entrances and **DENIED IN PART** as to the proposed redesignation of the existing use category for St. Mary's Hall and any renovations that would permanently preclude residential use of the building as contemplated in the 1990 campus plan.

VOTE: 5 - 0 (Carol J. Mitten, Robert N. Sockwell, Anne M. Renshaw, Rodney L. Moulden, and Sheila Cross Reid (by absentee vote), to approve the 427 square-foot addition and renovation of building entrances).

VOTE: 4 – 1 (Carol J. Mitten, Anne M. Renshaw, Robert N. Sockwell, and Rodney L. Moulden, to deny the redesignation of the existing use category for St. Mary's Hall from residential to mixed use and any renovations that would permanently preclude use of the building for dormitory beds; Sheila Cross Reid, to grant (by absentee vote)).

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

Each concurring member has approved the issuance of this Decision and Order and authorized the undersigned to execute this Decision and Order on his or her behalf.

ATTESTED BY:

JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: FEB 25 2001

PURSUANT TO 11 DCMR § 3125.6, THIS DECISION AND ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED ADDITION AND RENOVATIONS WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

THE APPLICANT SHALL COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, CODIFIED AS CHAPTER 25 IN TITLE 1 OF THE D.C. CODE. *SEE* D.C. CODE § 1-2531 (1999). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THE HUMAN RIGHTS ACT. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

MS/SMP

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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BZA APPLICATION NO. 16565

As Director of the Office of Zoning, I hereby certify and attest that on FEB 25 2001, a copy of the foregoing Decision and Order in BZA Application No. 16565 was mailed first class, postage prepaid, to each party and public agency who appeared and participated in the public hearing concerning this matter and who is listed below:

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ATTESTED BY: Jerrily R. Kress

JERRILY R. KRESS, FAIA
Director, Office of Zoning