Government of the District of Columbia

ZONING COMMISSION

ZONING COMMISSION ORDER NO. 949
Case No. 00-36CP/16638
(Campus Plan and Further Processing – American University)
July 19, 2001

This Decision and Order arises out of an application by American University ("University" or "Applicant") for special exception approval pursuant to 11 DCMR § 3104.1, and in accordance with §210 of the Zoning Regulations, of an updated Campus Plan for a period of 10 years and Further Processing approval, under the approved campus plan, of certain construction on the University's campus located in Ward 3 in Northwest Washington, D.C.

HEARING DATES: February 15 & 26, March 15, and April 5 & 19, 2001

DECISION DATES: June 11 and July 16 & 19, 2001

SUMMARY ORDER

The Applicant filed an application with the Board of Zoning Adjustment on August 24, 2000, for review and approval of the American University Campus Plan for Years 2000-2010 ("Campus Plan") and a further processing application to construct the Katzen Arts Center, an addition to the Mary Graydon Center, and the enclosure of the driveway underneath the Butler Pavilion and Sports Center Complex. By amendment of the Zoning Regulations effective December 8, 2000, responsibility for the review and approval of campus plans and the further processing of campus plans was transferred from the Board of Zoning Adjustment to the Zoning Commission ("Commission"). *See* Z.C. Order No. 932, 47 D.C. Reg. 9725 (Dec. 8, 2000). Accordingly, the University refiled its application with the Commission on February 1, 2001.

Advisory Neighborhood Commissions ("ANCs") 3D and 3E were automatically parties to this case. The Commission granted party status to Neighbors for a Livable Community, Spring Valley-Wesley Heights Citizens Association, Fort Gaines Citizens Association, American University Park Citizens Association, and Spring Valley Court Association (collectively, the "Neighborhood Associations"), Tenley Campus Neighbors Association ("TCNA"), Robert Herzstein, and Priscilla Holmes. The Commission denied requests for party status by Pilar Bilecky, Johnnie Cristaldi, Christina Cristaldi, Marcus Delina, Manuel Fernandez, Andrew Harris, Jetta Harris, Martin Kaufman, Jane Khoury, Dennis Paul, Valli Ponnamperuma, Alan Pollack, Codelle Rosenberg, Florence Saliba, Steve Saliba, Howard Schaffer, and Teresita Schaffer.

The Office of Planning ("OP"), the Department of Public Works ("DPW"), and the Department of Health participated in this proceeding. In addition, the Commission heard testimony from six witnesses who testified in support of the University's proposal, and 17 who opposed the Application. The Commission also received numerous letters in support of or in opposition to the proposed Campus Plan.

Motions

The Neighborhood Associations filed numerous motions throughout the course of this proceeding.

(a) By motions filed February 9 and March 29, 2001, the Neighborhood Associations sought same-day service of papers filed by the Applicant. The Applicant opposed the motions, asserting that they were without basis since University had complied with the Commission's rules.

(b) On February 9, 2001, the Neighborhood Associations filed a motion to require the Applicant to post notices of hearing and to reschedule the hearing. In its opposition, the Applicant argued that the motion should be denied because notice of the public hearing was properly posted on the campus.

(c) Also on February 9, 2001, the Neighborhood Associations sought a ruling regarding the extent to which prior orders of the Board of Zoning Adjustment relating to the University remained in effect. The Applicant responded that a new order issued by the Commission in this proceeding would supersede prior orders of the Board pertaining to campus plans.

(d) On May 22, 2001, the Neighborhood Associations moved to strike the Applicant's closing statement from the record because it was filed late, that is, on May 16, 2001, rather than May 3, 2001, thereby denying the Associations an opportunity to file a response. The Applicant responded that submission of its Closing Statement was proper and should be included in the record, because the filing on May 16, 2001, was in compliance with Chairperson Mitten's statements at the April 19, 2001, public hearing, was consistent with the Office of Zoning staff's understanding of the appropriate filing date, and did not violate the Due Process rights of the parties in opposition. The Applicant also noted that the Zoning Regulations do not provide opposition parties the right to respond to or cross-examine an applicant's closing statement, but give the opportunity to present a closing statement solely to the applicant because the applicant must satisfy the burden of proof.

(e) On July 12, 2001, the Neighborhood Associations filed an objection to the further participation of Commissioner Herbert Franklin in this proceeding "in the event that the successor of Herbert Franklin has taken office. . . ." The Applicant responded that there was no legal, procedural, or practical impediment to

Commissioner Franklin's participation in the final stages of the Campus Plan and Further Processing applications. Commissioner Franklin noted that he is still employed by the Architect of the Capitol for the purpose, among other matters, of participating in the resolution of cases before the Commission where he has participated in hearings on such cases.

(f) Also on July 12, 2001, the Neighborhood Associations filed a motion to open the record and take evidence on facts revealed in newspaper articles disclosing that the University was in the process of leasing large blocks of residential apartments for student occupancy near the campus. The Applicant opposed the motion, stating that the Zoning Commission had already received substantial information in the record on the Applicant's ability to provide housing on campus for its students and the University's impact on the adjacent community, and that no significant new information would be gained by reopening the record and allowing additional cross-examination of the Applicant's representatives.

(g) On July 13, 2001, the Neighborhood Associations submitted a motion asking the Commission to publish its order "in proposed form and to receive and consider comments thereon prior to publishing it in final form."

(h) By motion dated July 16, 2001, the Neighborhood Associations requested a hearing on the revised design of the Katzen Arts Center submitted by the University in response to the Commission's questions at the June 11, 2001, decision meeting.

Findings of Fact

1. The proposed Campus Plan applies to both the University's Main Campus, approximately 76 acres located at Ward Circle at the intersection of Massachusetts and Nebraska Avenues, N.W., and the Tenley Campus, approximately 8 acres located at Tenley Circle at the intersection of Wisconsin and Nebraska Avenues, N.W. The two campuses are located approximately one mile apart in the R-1-B, R-5-A, and R-5-B zone districts.

2. The Main Campus, the site of most of the University's activity since its founding in 1893, is bordered principally by the residential neighborhoods of Spring Valley, American University Park, Fort Gaines, Wesley Heights, and Westover Place. The Tenley Campus, purchased by the University in 1985, is surrounded by low-density single-family residences and churches, with significant commercial activity along Wisconsin Avenue. The Applicant's law school, the Washington College of Law, is located outside the campus boundary at 4801 Massachusetts Avenue. Exhibit 7 at 15, 21.

3. The University's previous campus plan was adopted by the Board of Zoning Adjustment in Application No. 14640 by order issued February 21, 1990 ("1990 Order"). Approval of the prior campus plan (known as the "1989 Plan") was for a term "through the year 2000." The 1989 Plan incorporated the terms and conditions of an agreement (known as the "1989 Agreement") between the University and community groups, making the 1989

Agreement "enforceable in the same manner as any other condition contained in an order of this Board." BZA Application No. 14640, order issued February 21, 1990, at 29-30, Condition No. 5.

4. The proposed Campus Plan characterizes on-campus land uses in the following categories: (a) "Academic" – instructional facilities, faculty offices, research facilities, and administrative offices of academic programs; (b) "Administrative" – offices, workshops, or other work areas housing employees not directly involved in instruction or research; (c) "Athletic" – facilities supporting athletic activities (indoor or outdoor), whether formal or informal; (d) "Campus Life" – facilities supporting the non-academic student activities; (e) "Residential" – housing for students; and (f) "Open Space" – green space areas on campus presently devoted to active or passive recreational and athletic use. Exhibit 234 at 2.

5. The proposed plan identified 573,000 square feet of new development, including a potential total of 421,000 square feet of Academic/Administrative space and a potential total of 152,000 square feet of Residential/Campus Life/Athletic space. (The proposed new developments, including the further processing requests, were identified by the Applicant as Projects A through M, discussed *infra*.) However, the Applicant testified that no more than 400,000 square feet of new gross floor area would be added to the campus by 2010, explaining that the Campus Plan included more facilities than the University would build during the 10-year life of the plan in order to accommodate the University's need for flexibility. Exhibit 7 at 31; Feb. 15, 2001, Tr. at 47.

6. Construction of the proposed additional area would result in a floor area ratio ("FAR") of 0.65 for the campus. Exhibit 7 at 15. The campus now has almost two million square feet of building area and an overall FAR of 0.54. Exhibit 52 at 12. No floor area ratio is prescribed for the R-1-B zone, while a FAR of 0.9 is permitted in the R-5-A zone and a FAR of 1.8 is permitted in the R-5-B zone. *See* 11 DCMR § 402.4.

7. In 1917-1918 and again in 1942-1945, the University made the Main Campus available to the federal government. Exhibit 7 at 15. In the mid-1990s, the University began working with the Army Corps of Engineers to test, remove, and remediate any adverse environmental conditions that exist in the Spring Valley neighborhood, including those associated with arsenic. Representatives of the University, the D.C. Department of Health, the U.S. Environmental Protection Agency, and the Army Corps of Engineers meet monthly to address the status of the Corps' sampling of soils in the Spring Valley neighborhood and on the University's campus. Exhibit 153 at 1, 3.

8. The Department of Health ("DOH") was consulted on the proposed Campus Plan in light of the ongoing project undertaken by the Army Corps of Engineers to investigate and clean up any contamination in the Spring Valley neighborhood. DOH requested that, as a condition of approval of the new campus plan, the Applicant should be required to notify DOH, the Corps of Engineers, and the U.S. Environmental Protection Agency when filing a permit application for any building, roadwork, or site work. The notification would allow the Corps of Engineers to determine whether the affected site was within a

"point of interest" or "hot spot" and to provide clearance allowing the development to proceed as well as technical guidance to contractors on necessary procedures to ensure safety. DOH stated that this notification procedure would apply in addition to the Environmental Impact Screening Form ("EISF") process. Exhibit 191.

Campus Boundaries

9. The proposed Campus Plan incorporates the same boundaries approved as part of the 1989 Plan.

10. Since the approval of the 1989 Plan, the University moved its law school, the Washington College of Law, to 4801 Massachusetts Avenue, N.W., a commercially-zoned site approximately three blocks from the Main Campus. The law school is served by the University's shuttle bus operation; the "Glover/Washington College of Law Route" connects the Main Campus, the Glover Building, the Nebraska Avenue parking lot, and the law school. Exhibit 7, Tab P at 21.

11. The Office of Planning testified that students attending the University's law school "have some impact on the surrounding community in terms of traffic and parking." OP shared concerns expressed by the neighboring community about the shift of University uses off campus in a manner that impacted the community, and stated that the elimination of the Applicant's 1,400 law students from the student population cap "understates the true level, type and location of University-driven activity." Exhibit 52 at 9, 29-30.

12. At its duly noticed meeting on February 7, 2001, ANC 3D passed a resolution by a vote of 7-0-0 concerning the proposed Campus Plan. Among other things, ANC 3D expressed concern that the Application gave no indication that the University would refrain from occupying more office and residential buildings off-campus but in the neighborhood. According to the ANC, "the expansion of large academic institutions into established residential communities, by taking over buildings that otherwise would serve the residential, shopping, medical, and professional needs of the neighbors, has an immediate and serious adverse effect on the communities." Exhibit 51 at 3.

13. The Neighborhood Associations contended that the law school should be included in the campus for the purpose of determining the neighborhood impact of the University, arguing that the functions of the law school are closely integrated with the campus, that the law school would not be at its present location but for the existence of the University in a residential district, and that the law school has the same or a greater impact on the residential community as it would if located in the middle of the Main Campus. The Associations asserted that "where the commercial property's use is integrated with the nearby operation of a university on residentially zoned property, the entire university operations must be examined in order to determine whether further facilities on residentially zoned properties are 'not likely to have objectionable impacts' upon neighbors." Exhibit 94 at 33-34; Exhibit 201 at 20.

14. American University Park Citizens Association asserted that the campus boundary should be extended to include the law school and its population, because the law school is an integral part of the University and is "extremely close" to and has major relationships with the Main Campus. Exhibit 175 at 1-2.

15. The Commission finds that the law school is integrated in the University's campus to the extent that the law students likely create traffic, parking, and other implications that intensify on-campus activities. For example, law students may ride the University shuttle buses or park in University parking spaces, use campus facilities such as the library or recreational facilities, attend University events, and handle administrative matters on-campus.

Population Caps

16. The proposed Campus Plan maintained the student and employee population caps established in the 1989 Plan; that is, a student population of 9,800 full-time equivalent ("FTE") students and 2,200 employees. However, unlike the 1989 Plan, the Applicant's proposed new campus plan excluded law students and staff from the calculation of the population caps, reflecting the law school's move to an off-campus location. The FTE population cap of 9,800 students was calculated using the headcount number of 11,233 students. The University testified that it did not intend to increase the number of students on campus dramatically, but emphasized the importance of having flexibility in the number of students it could admit in order to react to the fluctuating market for higher educational institutions. Exhibit 7 at 10.

17. As of Fall 2000, the University's "headcount enrollment," excluding law students, was 9,532. The student population comprised 4,967 undergraduates (4,796 full-time and 171 part-time), 3,733 graduate students (1,844 full-time and 1,889 part-time), and 832 non-degree students (135 full-time and 697 part-time). Exhibit 129 at C.

18. The Applicant asserted that the proposed number of students would not cause any objectionable impacts on neighboring properties, citing the lack of evidence of off-campus student misconduct and the fact that the University does not have a large number of students living off-campus in a concentrated geographic area. Exhibit 213, Tab 1 at 2.

19. ANC 3D expressed concern that the University's proposal offered no significant protection against substantial increases in the population of students and staff but would result in a net increase of 15 percent in students and staff by maintaining the cap adopted in the 1989 Plan, even though the law students and staff were no longer included in the calculation. ANC 3D stated that the new population caps for students and staff should be reduced by the number of law students and staff allowed under the previous cap "to avoid further congestion in the neighborhood and rein in the inevitable pressure for still more new buildings." Exhibit 51 at 3.

20. ANC 3E adopted an "interim resolution" by a vote of 4-1 at its meeting on November 16, 2000. The interim resolution stated, among other things, that the population caps should include commercially-zoned property used for University activities. Exhibit 3.

21. The Neighborhood Associations argued that the University's proposed student cap was not meaningful but would allow a 25 percent increase in population. According to the Associations, the population caps should be 10,175 students (total head count) and 2,193 employees, thereby (a) allowing the current population to continue with approximately eight to 10 percent increases to accommodate temporary fluctuations, and (b) removing the spaces reserved in the 1989 Plan for law students that were no longer needed because the law students were not counted in the campus population. Exhibit 141 at Exhibit C.

22. American University Park Citizens Association also objected to the University's proposal to increase the student population, potentially adding 1,750 undergraduates without proposing a significant increase in dormitory space, citing concern about a major increase in student housing and parking in American University Park, Spring Valley, and Spring Valley Court. Exhibit 175 at 5.

Vehicular Traffic

23. The Applicant analyzed the impact of the proposed Campus Plan on traffic and parking patterns in two five-year phases. During the first five years, the plan proposed the construction of approximately 950 new parking spaces in garages (550 spaces in the Katzen Arts Center and 400 spaces in Project K), along with the removal of parking spaces now located on internal circulation roadways and the construction of a loop road to minimize pedestrian/vehicle conflicts on-campus and enhance campus beauty.

24. Plans for the second five years included (a) construction of new entrances to the campus at the intersection of Nebraska and New Mexico Avenues, thereby providing access to two new parking garages with approximately 520 parking spaces and allowing the closing of the existing Reeves Gate and Woods Gate entrances to the campus, and (b) the widening of Nebraska Avenue, using property on the University's side of the street to create exclusive left-turn lanes for both north- and south-bound traffic seeking to enter the new parking garages or the Nebraska Avenue parking lot via New Mexico Avenue. The Applicant also planned to build a new 200-space parking garage on the Tenley Campus during the latter half of the proposed 10-year Campus Plan.

25. The Traffic and Parking Study prepared by the Applicant's traffic engineer concluded that most traffic on Massachusetts, Nebraska, and Wisconsin Avenues is commuter-related. According to the University, its contribution to the volume of traffic on these roads is minimal – seven percent of the overall morning peak-hour traffic and 14 percent of the evening peak-hour traffic – and is expected to remain so in the future. Exhibit 7 at 6, Tab P at 15.

26. The Department of Public Works concurred with the Applicant's calculations of traffic capacity and level of service at intersections surrounding the campus, and agreed that the

proposed Campus Plan, including the Katzen Arts Center project, would not worsen traffic operation in the area. Exhibit 52, DPW Report at 3; Exhibit 148.

27. Elements of the Transportation Management Plan previously implemented by the Applicant include a shuttle bus system, whose annual ridership rose from 910,000 in 1995 to 1.2 million in 1998. The proposed Campus Plan calls for continued expansion of the routes and hours of operation of the shuttle bus system as well as increased University support for alternative work arrangements and greater emphasis on the University's participation in the Commuter Connections program. Exhibit 7, Tab P at 23, 48-49.

28. Both the Main and Tenley Campuses are well served by several Metrobus routes as well as the Tenleytown-AU Metrorail Station. The Department of Public Works recommended that the University expand its activities to vigorously promote the use of mass transit as well as other non-vehicular options by students, faculty, and staff to further reduce traffic congestion in and around the University campus. Exhibit 52, DPW Report at 3.

29. DPW endorsed the Applicant's proposed improvements to enhance traffic circulation in and around the campus; specifically (1) adding a left-turn lane on Nebraska Avenue to provide a left-turn bay from southbound Nebraska Avenue to New Mexico Avenue, (2) constructing a driveway opposite New Mexico Avenue to provide access to garages in Projects D and E, and (3) closing two existing driveways on Nebraska Avenue adjacent to the Main Campus. Exhibit 52, DPW Report at 4-5.

Pedestrian Traffic

30. The Applicant's traffic expert witness analyzed the pedestrian levels of service expected to occur between the proposed Katzen Arts Center and the Main Campus, and concluded that pedestrians crossing Massachusetts Avenue at Glover Gate would experience an acceptable Level of Service B, such that pedestrians would be able to select walking speeds, bypass other pedestrians, and avoid crossing conflicts. The determination of pedestrian density flow was made by projecting the number of pedestrians crossing Massachusetts Avenue between the Main Campus and the Katzen Arts Center and the number of pedestrians who would walk to the Main Campus after parking in the Arts Center garage. Exhibits 109 and 213, Tab 2; Feb. 15, 2001, Tr. at 93-95.

Campus Parking

31. The Applicant's existing parking supply is 2,523 parking spaces, including spaces outside the campus boundary at the parking lot of the Metropolitan United Methodist Church at 3401 Nebraska Avenue, N.W. Feb. 15, 2001, Tr. at 74.

32. The University has "a long-standing cooperative relationship" with the church that allows the University to use the church's parking lot on weekdays on an as-needed basis. Exhibit 234 at 6. The Board of Zoning Adjustment recently approved the University's

continued accessory use of the church parking lot for a term of 10 years. *See* BZA Application No. 16673, order issued May 7, 2001.

33. At the peak time for parking demand (1:00 p.m. on a Monday), approximately 15 percent of the on-campus parking spaces, and 78 percent of the parking spaces on adjacent neighborhood streets, were vacant. Feb. 15, 2001, Tr. at 74-75.

34. Under the proposed Campus Plan, the number of parking spaces on campus would increase by approximately 470, from the current 2,490 spaces called for in the 1989 Plan to approximately 2,900 spaces on campus. The Applicant testified that its proposal would provide sufficient on-campus parking to satisfy the parking demands of students, faculty, staff, and visitors to the campus even if all the proposed development projects were constructed. Exhibit 7, Tab P at 51; Feb. 15, 2001, Tr. at 74-75.

35. With regard to the phasing of construction projects and the impact on parking available on campus, the Applicant testified that the existing Sports Center parking garage would not be closed until the proposed parking garages in the Katzen Arts Center and Project K were completed, together providing more spaces than are currently available in the Sports Center garage. Feb. 15, 2001, Tr. at 104.

36. The Department of Public Works concluded that the provision of 2,959 parking spaces, as proposed by the Applicant, would be "more than adequate to meet future parking demand on campus" and would "minimize parking spillover in the surrounding residential neighborhood." DPW also testified that the consolidation of surface parking areas scattered throughout the Main Campus into underground parking garages would minimize pedestrian/vehicle conflict and enhance pedestrian safety. Exhibit 52, DPW Report at 4.

37. The Office of Planning supported the Applicant's plans to construct underground parking, thereby eliminating surface parking lots and improving the visual character and pedestrian movement aspects of the campus. However, OP expressed concern about the timing of the new parking facilities, and testified that, to ensure the provision of adequate parking, existing parking on-campus should not be closed until the new parking structures were completed. Exhibit 52 at 25-26.

Off-campus Parking

38. In response to concerns raised by the Neighborhood Associations and other members of the surrounding community, the University agreed to create an off-campus parking enforcement program applicable in areas around the Main and Tenley Campuses. The proposed "Off-Campus Parking Enforcement Policy" would require the University to take certain measures to discourage students, faculty, staff, visitors, and vendors servicing the campus from parking on the streets adjacent to and surrounding the campus. Exhibit 129 at Exhibit C.

39. The Office of Planning expressed concern about parking on neighborhood streets adjacent to the University's campus, noting that the growing number of students, staff, and activities on-campus would generate additional traffic and parking demand on nearby off-campus streets. OP testified that the University's shuttle bus service has been insufficient to reduce parking on neighborhood streets, and its parking enforcement efforts around the law school have not been sufficient to mitigate university-generated impacts. Therefore, OP recommended a broader off-campus parking enforcement program. Exhibit 52 at 26.

40. ANC 3D expressed concern that the proposed Campus Plan contained no significant improvement in the University's parking program. According to the ANC, a stronger program was needed to ensure that students and other University-related drivers would not continue to park on neighborhood streets despite the University's policy to provide paid parking for them. Exhibit 51 at 3.

41. The Neighborhood Associations complained about University-related parking on neighborhood streets, and recommended a program combining fines, student agreements, and enforcement by the University – patrolling the streets and responding to telephone complaints – to eliminate parking by students in the surrounding neighborhoods. The Associations commented favorably on the parking solution devised in the 1999 Mount Vernon Campus Plan (*see* BZA Application No. 16505, order issued February 8, 2000). Exhibit 94 at 47-49.

42. The Tenley Campus Neighbors Association also contended that students, staff, and visitors using the Tenley Campus park on neighborhood streets in the vicinity of the campus, and that the problem was exacerbated by infrequent enforcement of residential parking restrictions. Apr. 19, 2001, Tr. at 78.

43. The Commission finds that University-related parking, generated by students, staff, and visitors, persists on streets in the neighborhoods surrounding the Main and Tenley Campuses despite the University's efforts to provide adequate on-campus parking and to promote alternative forms of transportation to the campus.

Housing

44. The University currently provides housing on campus for two-thirds of its undergraduate students, and 85 percent of its freshman and sophomore students live in campus dormitories. Exhibit 7 at 9; Feb. 15, 2001, Tr. at 45. A total of 3,264 beds are presently provided in nine campus residence halls. Exhibit 129 at E.

45. The Office of Planning described the Applicant's proposal to provide new housing for 200 students on the Tenley Campus as "welcome but limited," noting that the provision of additional on-campus housing was "still desirable." Exhibit 52 at 22.

46. The Department of Public Works testified that an effective way to minimize traffic to and from the campus is to provide enough on-campus housing for students. DPW

recommended that the University should be required to set a goal of housing at least 70 to 75 percent of its undergraduate student body on-campus, which would provide "an extremely beneficial improvement on the local traffic." Exhibit 52, DPW Report at 2.

47. ANC 3E's interim resolution stated that the campus should provide housing for at least 750 additional undergraduates. Exhibit 3.

48. The Neighborhood Associations asserted that the University should continue to house no less than the current percentage of total student body, so that any increase in student population should be accompanied by arrangements to house the additional students and to provide parking for their cars. Exhibit 201 at 15.

Campus Design

49. A major goal of the proposed Campus Plan was to improve the organization of the campus by putting the core academic functions at the center, with the support and administrative functions further out or at off-campus locations. Exhibit 7. The Applicant proposed to make the center of the Main Campus a pedestrian space with an academic and student-life focus, so as to provide appropriate settings for needed facilities while minimizing pedestrian/vehicle conflicts, strengthening pedestrian connections throughout the campus, and increasing and connecting the green space. Feb. 15, 2001, Tr. at 57-60.

50. The Campus Plan proposed to change the existing circulation system by removing the center spine of the campus road and relocating it to the existing roadway or parking areas on the western side of the campus. The University planned to locate a majority of new parking spaces underground, and to provide extensive tree and buffer plantings along the new ring road and campus boundaries. Feb. 15, 2001, Tr. at 57-60. The Campus Plan also proposed to continue the campus beautification program approved in the 1989 Plan. Exhibit 7.

51. The athletic fields located on the western boundary of the campus (the Intramural and Reeves Fields) are used primarily as athletic fields for intercollegiate and intramural sports and for recreational activities. To minimize any adverse noise impacts, the Applicant proposed conditions applicable to special events, such as picnics, receptions, or charitable events, conducted on the athletic fields. Exhibit 129 at Exhibit D; Exhibit 151 at Tab 5.

52. The Office of Planning applauded the University's "major effort" to restructure the physical framework of the campus, which OP stated would maximize space for on-campus academic facilities, enhance the open space character of the campus, and create a greatly enhanced and connected landscape environment. OP also noted the importance of landscaping as one of the best tools to mitigate adverse noise and light impacts as well as to soften hardscaped edges such as buildings, steps, and roads. Exhibit 52 at 23-26, 28.

53. The Department of Public Works also commented favorably on the University's proposal to close the section of road that currently cuts through the center of the campus, and

supported the proposal to enhance and facilitate pedestrian circulation and minimize conflicts between the pedestrian and vehicular circulation systems. Exhibit 52, DPW Report at 4.

54. With regard to the proposed change in the campus circulation system, ANC 3D stated that traffic would be routed so that cars and buses would be directly within the sight and hearing of residents on Woodway Lane and University Avenue. ANC 3D concluded that "clear and enforceable commitments are needed" so that the road would not be widened to handle increased traffic, and that traffic would be "obscured by a berm and dense plantings at all points where neighboring residences need protection." Exhibit 51 at 5.

55. The Neighborhood Associations also noted that the proposed new roadway, carrying all campus traffic, would be visible to residents on Woodway Lane and University Avenue unless effectively screened. The Associations conceded that the Applicant's proposed "first phase" landscape plan appeared likely to provide effective screening for the part of the road next to Centennial Hall, and that equivalent plantings, supplemented by a fence if necessary, could address the other portions of the roadway. Exhibit 141 at Exhibit C, 2-3; Exhibit 201 at 14.

56. The Neighborhood Associations asserted that the existing roadway around the west end of Centennial Hall, which the Applicant proposed to include in the new Campus Road, should not be widened beyond its present width of 24 feet, while other portions of the proposed Campus Road, not yet constructed, should not exceed 30 feet in width. Exhibit 201 at 14.

Specificity

57. The resolution passed by ANC 3D stated that the proposed "Campus Plan and specific building proposals need further work" and should be "rejected because of the clear adverse impacts on the neighborhood," absent an agreement between the University and the community to resolve those impacts. ANC 3D expressed concern that the proposed Campus Plan was very vague, giving "little indication of a clear vision that guides the physical development or the important specifics about the need for individual structures, the design standards, and protections for the residential neighborhoods in which the University is located." Exhibit 51 at 3.

58. ANC 3E's interim resolution stated that the proposed Campus Plan did not address adverse impacts on American University Park and Tenleytown residential areas resulting from the University's continued expansion into commercially-zoned property directly adjacent to single-family residential housing. Exhibit 3. At its meeting held February 8, 2001, ANC 3E voted 4-1 to reject the proposed campus plan and applications for further processing as filed, because the community's concerns had not been adequately addressed. The ANC's concerns pertained to the University's population cap; parking and traffic; design concerns regarding lighting, noise, and height of the proposed Katzen Arts Center; and excessive density that might result from aspects of the proposed plan, specifically Projects K, L, and M. Exhibit No. 71.

59. The Neighborhood Associations had concerned that the proposed Campus Plan was "extraordinarily vague, setting forth undertakings and 'policies' in such general language as to provide little real protection against objectionable impact." The Associations argued that, because of its failure to provide meaningful protection against adverse impacts, the Applicant failed to meet its burden of proof that its proposed programs and structures were not likely to become objectionable to residential neighbors. Exhibit 141 at 3-4.

Liaison Committee

60. The Applicant recommended the formation of a new community liaison committee, comprising an equal number of members from the University and from the neighboring communities, that would meet at least three times per year to address issues of concern raised by the community and the University. The University proposed to designate a contact available 24 hours per day, to give the Liaison Committee advance notice of the filing of plans for further processing applications, and to provide enrollment data, including the actual numbers of students and employees, upon request. Exhibit 129 at 3-4.

61. The Neighborhood Associations asserted that "[i]t is plainly necessary to maintain a procedure for regular consultation between the University and neighborhood organizations" and recommended a procedure calling for meetings on a regular schedule. The Associations recommended formation of a liaison committee, including representatives of the University and each neighborhood organization, that would meet at least once each quarter to discuss issues concerning the impact of the University on the neighboring community. Exhibit 141 at 7-8, Exhibit C at 5; Exhibit 201 at 19.

62. The Neighborhood Associations also proposed implementation of an arbitration process as "a simple, fast and inexpensive procedure for resolving disputes" relating to the University's obligations regarding landscaping, lighting, parking enforcement, and similar matters. Exhibit 141 at 7-8, Exhibit C at 5; Exhibit 201 at 19.

Comprehensive Plan

63. The Applicant testified that the proposed Campus Plan satisfies many of the goals enumerated in the District Elements of the Comprehensive Plan. According to the Applicant, implementation of the plan would encourage private sector growth and improve community labor force skills and employment opportunities. The University also contended that the proposed Campus Plan would fulfill major Comprehensive Plan goals pertaining to architectural character, including designation of Massachusetts Avenue as a "special street," building height limitations, physical and symbolic imagery, streetscapes, and urban parks and places.

64. The Office of Planning testified that a "guiding principle" of the Comprehensive Plan is the stabilization and preservation of neighborhoods. With respect to Ward 3, OP noted

that the Comprehensive Plan recognizes the development pressures potentially associated with expansion of institutional uses, such as American University, and provides that "[t]he compatibility of these uses must be maintained, expansion carefully controlled, change to neighborhood-related uses encouraged, and conversion to other nonconforming uses prevented." Exhibit 52 at 4, quoting 10 DCMR § 1409.1(f).

65. The Neighborhood Associations asserted that the Comprehensive Plan emphasizes the low-density, stable residential neighborhoods of Ward 3 as well as its open space, abundance of greenery, and predominantly low-density built environment. *See* 10 DCMR §§ 1400.2(a), 1403.1(c). According to the Neighborhood Associations, the proposed Campus Plan conflicted with the Comprehensive Plan by proposing extensive new construction, including the loss of open space, dense construction at the periphery, and an imposing structure in plain view of Massachusetts Avenue, and in its inconsistency with the maintenance of a stable residential community due to the impacts inherent in the planned facilities and operations. Exhibit 94 at 40-41.

66. The campus is included in the institutional land use category on the Generalized Land Use Map.

Development Projects

67. The proposed Campus Plan set forth several projects that the University planned to undertake over the term of the plan. *See* Exhibit 7 at 31-34.

68. Project A would be a building three stories or approximately 40-foot high, containing 30,000 square feet of space, located between and connected to the Watkins and Kreeger buildings at the southwest end of the campus. Upon completion of the proposed Katzen Arts Center, Project A and the Watkins and Kreeger buildings would be used for academic offices or administrative support functions.

69. The Office of Planning noted that Project A would be located in an area presently used for open and recreational space and a series of small buildings, where relatively steep slopes, falling off to the adjacent residential area, limited the opportunity for major development. OP testified that Watkins and Kreeger are both three-story buildings but appeared lower because they were built on a narrow ridge. OP concluded that "[a]voiding impacts on the adjacent residential area requires careful siting and landscape buffering of the new building," and noted the importance of the design of Project A with respect to "how the new building will be connected to and relate to Watkins and Kreeger." OP recommended approval of Project A in concept, "recognizing that considerable design work and consultation will be necessary when this building project is ready to proceed." OP also recommended specific development guidelines to ensure that development of Project A would occur in such a way that the building mass and height would be minimized; that noise, light, and other objectionable impacts would be successfully mitigated; and that other developments internal to the campus would be buffered. According to OP, "formulating a design that is more domestic in character and

scale would allow [Project A] to relate better to residential buildings to the south." Exhibit 52 at 15.

70. ANC 3D noted that Project A "would be constructed on the quietest corner of the campus, in an area proudly described by the University as a buffer area designed to protect neighboring residences from the noise and commotion of the campus." According to the ANC, since Project A will adjoin the back yards of residences, without a street or other separation, it would be impossible to screen the residences from the mechanical noise of air conditioners and other equipment, or from light and noise. Exhibit 51 at 4.

71. The Neighborhood Associations recommended deletion of Project A from the proposed Campus Plan, citing objectionable noise and light impacts that could not be mitigated by the Applicant's proposed "ample buffering" or "reduced noise." Exhibit 141 at Exhibit C, 2; Exhibit 201 at 9-10.

72. Project B would be a building three stories or approximately 40-foot high, containing 50,000 square feet of space, and located at the south end of the campus. Project B would house academic programs currently located in other buildings, and would be built on the site of and replace the existing Rockwood, Public Safety, and Financial Aid buildings.

73. The Office of Planning testified that Project B raised issues similar to those raised by Project A, but that "the design and impact issues are more difficult because [Project B] is larger, the slope is steeper and residential buildings along Rockwood Parkway are nearby." OP concluded that the type of development standards indicated for Project A were also needed for Project B, along with careful design studies at the time of further processing, and that formulation of a design "more domestic in character" would allow Project B to relate better to residential buildings to the south. Exhibit 52 at 15-16.

74. ANC 3D also expressed similar concerns about Project B as it did about Project A, but noted that Project B would not be as close to adjacent residences. According to ANC 3D, dense screening and careful planning could avoid adverse impacts associated with Project B, but the Campus Plan "gives no assurance that they will be provided." Exhibit 51 at 4.

75. The Neighborhood Associations recommended deletion of Project B from the proposed Campus Plan, again citing objectionable noise and light impacts that could not be mitigated by the Applicant's proposed "ample buffering" or "reduced noise." Exhibit 141 at Exhibit C, 2; Exhibit 201 at 9-10.

76. Project C comprised a building two stories or 25 feet high, containing 2,000 square feet of space, located at the eastern end of the main athletic field, and used to store maintenance equipment. As initially proposed, Project C also included new bleacher seating for 1,000 spectators. Exhibit 7 at 32. The Applicant subsequently revised Project C by reducing the number of new bleacher seats to 500. Exhibit 160 at 3-4.

77. The athletic field currently has 800 bleacher seats that face away from the nearby residences. Feb. 26, 2001 Tr. at 79. The Applicant denied proposing to increase the intensity of the use of the athletic field but stated that it sought merely to provide seating to accommodate students who now attend games held on the field. Exhibit 160 at 3-4.

78. The Office of Planning noted that Project C, a proposed sports facility, would be located on the perimeter of the campus, 100 to 300 feet from single-family houses on University Avenue that would likely be subjected to higher noise concentrations after the installation of additional formalized seating. OP expressed particular concern about the location and number of seats, recognizing that the proposed new bleachers would be facing the residential neighborhood. OP recommended that the bleachers be reduced in number or eliminated completely, citing concern about the increased impact likely with additional seating and inappropriate for the low-density neighborhood in close proximity. Exhibit 52 at 16.

79. OP later testified that a revised bleacher concept – 250 seats arranged in three rows – could be approved in accordance with Section 210 requirements. Exhibit 239 at 4.

80. With regard to Project C, ANC 3D objected to likely noise impacts that would project directly into houses bordering the soccer field. Exhibit 51 at 4.

81. The Neighborhood Associations urged the Commission to reject the bleacher proposal, arguing that even a reduction to 500 seats would not remedy noise problems. The Associations also objected to the building portion of Project C, stating that it should not be constructed until an all-season landscape buffer was in place that would effectively screen the building from the view of nearby houses. Exhibit 141 at Exhibit C, 2-3; Exhibit 201 at 10-11.

82. Project D would be a building of 100,000 square feet located east of Bender Library on an existing surface parking lot. The planned building – four (4) stories or 60 feet high, with an underground garage for 260 cars – was intended to accommodate expansion of the library, classrooms, and academic offices.

83. The Office of Planning commented favorably on the location of Project D, describing the area as "clearly a site for an important building on the campus" such as a library. However, OP recommended that (a) Project D should have pedestrian entrances on the Nebraska Avenue side of the building, similar to other University buildings on Nebraska, (b) a greater setback requirement should be adopted for Project D, generally consistent with neighboring Hurst Hall, to enhance the special character of Nebraska Avenue and to allow for trees and lawn in front of the buildings, and (c) garage entrances for Project D should be designed in a way that would facilitate traffic flow and not allow traffic to back up onto Nebraska Avenue. Exhibit 52 at 17.

84. The Neighborhood Associations supported the recommendations of OP, and urged further that, if Nebraska Avenue is widened, Project D should be set back further than Hurst Hall; that there should be no gates or other entry procedures that have the effect of

slowing cars from entering the parking garage under the building; and that ramps leading into the garage from Nebraska Avenue should be as long as possible to reduce queuing on Nebraska Avenue. Exhibit 201 at 11.

85. Project E would be an 80,000-square-foot building, four stories or 60 feet high, located at the east end of campus on the site of the existing School of International Service Building. Project E would also house the School of International Service, containing classrooms and offices, and would have an underground parking garage for 260 cars that would connect with the parking garage under Project D.

86. The Office of Planning testified that the proposed site of Project E was an important and suitable location for a major new building. As with Project D, OP recommended adoption of "an appropriate setback line" for Project E. Exhibit 52 at 18.

87. The Neighborhood Associations also supported the recommendations of OP with respect to Project E, and made the same recommendations as with Project D concerning the building's setback and traffic on Nebraska Avenue. Exhibit 201 at 11.

88. Project F would be a 100,000-square-foot building, four stories or 60 feet high, located at the center of campus on the site of the existing Asbury Building, and housing laboratory science and technology programs.

89. The Office of Planning testified that the potential impacts of Project F would be limited by its site, which was generally perpendicular to the residential neighborhoods to the west, with the advantage that Project F would block some of the view of the Sports Center, a plain, boxy building. OP recommended guidelines to ensure that development of Project F would occur in a way that mitigated noise, light, and other objectionable impacts, and that buffered other developments internal to the campus. Exhibit 52 at 18.

90. ANC 3D stated that Project F should not be approved without "a concrete enforceable commitment regarding its visual impact," noting that the proposed building would be "massive" and would face residences on University Avenue that already have an unappealing view of the campus "featuring a large smokestack, high dormitory apartment buildings, a large garage and an enclosed sports arena." Exhibit 51 at 4-5.

91. The Neighborhood Associations supported the recommendations of OP with respect to Project F, and also urged that the building design should break up the mass into separate sections, avoiding large-scale facades facing west, and that the building should not be constructed until an all-season landscape buffer is in place that would effectively screen it from the view of nearby houses on University Avenue, Quebec Street, and Woodway Lane. Exhibit 201 at 12-13; Exhibit 141 at Exhibit C, 3.

92. Project H would not add any gross floor area to the campus but involved renovation of the existing Sports Center parking garage to adapt it for office and academic facility use.

93. The Office of Planning commented favorably on the University's efforts to maximize space on campus for academic facilities while improving open space and also making a concerted effort to eliminate surface parking by building underground parking structures in several locations on campus. OP suggested that providing parking in several locations, rather than channeling cars into a central parking garage, could ease overall traffic bottlenecks associated with parking. Citing the "critical importance" of timing, OP recommended that the existing Sports Center garage should remain in operation until the same number of parking spaces came on-line in the new parking facilities. Exhibit 52 at 21.

94. Project J would add 10,000 square feet to the Kay Spiritual Life Center at the northern end of the campus in a building two (2) stories or 25 feet high.

95. The Office of Planning noted that the proposed addition would be visible from and part of the Massachusetts Avenue visual corridor, and would occupy an important location in terms of the image of the University. OP concluded that Project J would need to be "designed with care, with appropriate landscaping, to enhance this setting," but made no specific recommendations for Project J at its current conceptual stage. Exhibit 52 at 22.

96. Project K was initially proposed to be a 50,000-square-foot building, four stories or 60 feet at its highest point, located at the northwest corner of the campus. Project K was intended to consolidate administrative offices and to provide alternative style (suites) housing, and would be built on the site of an existing surface parking lot with an underground garage for 400 cars. Exhibit 7 at 33.

97. The Applicant subsequently revised its proposal to reduce the size of Project K to approximately 40,000 square feet and 50 feet in height. According to the Applicant, the revised Project K would have minimal impact on views of the President's Office Building and from Massachusetts Avenue, because the building would be 165 feet from Massachusetts Avenue and behind a substantial grove of existing mature trees, on a building site sloping away from the President's Office Building. Exhibit 234 at 7.

98. The Office of Planning testified that no development should overshadow the architectural importance of the President's Office Building in light of its architectural and historical importance to the University and as a visual landmark for those walking or driving along Massachusetts Avenue. OP recommended inclusion of Project K in the approved campus plan only on the condition that development guidelines would protect the President's Office Building and would preserve the integrity of the existing topography and the visual quality of the Massachusetts Avenue corridor. Exhibit 52 at 19-20.

99. In response to the Applicant's revised proposal, OP recommended approval of the building location with an indication that 40,000 square feet and 50 feet in height would be the upper limit for Project K, noting that additional design studies would be needed as part of the further processing review for the building. Exhibit 239 at 5.

100. ANC 3D contended that Project K – at 60 feet tall and constructed on one of the highest points of land on the campus, atop a steep embankment bordering Massachusetts Avenue – would create a towering effect and, coupled with the Katzen Arts Center, a "canyon" that would damage the special quality of Massachusetts Avenue. Exhibit 51 at 4.

101. The Neighborhood Associations argued that Project K, proposed for a very sensitive site that would threaten the special quality of Massachusetts Avenue and jeopardize the historic President's Office Building, should be deleted from the proposed Campus Plan until its concept, size, and impact were studied more carefully. The Associations also expressed concern about the underground parking element, but concluded that the garage could be constructed provided it did not disturb the topography or vegetation on the Massachusetts Avenue side. Exhibit 201 at 13; Exhibit 141 at Exhibit C, 3.

102. Project M was initially proposed as a 100,000-square-foot building in the center of the Tenley Campus to house multiple functions, including housing for approximately 200 students as well as office and instructional space. The proposed building would be three stories or 40 feet high, and would provide parking for 250 cars. Exhibit 7 at 34. The Applicant subsequently reduced the size of the proposed Project M to 75,000 square feet. Exhibit 234 at 5.

103. The Office of Planning considered whether Project M could be designed and built in a way that would relate to and improve the design quality of the Tenley Campus and not adversely affect the adjacent single-family houses. OP concluded that Project M could be accommodated on the Tenley Campus site with appropriate development guidelines, and that the flexibility desired by the University with respect to the proposed uses of Project M could be permitted without adverse impact on the surrounding neighborhood. Exhibit 52 at 22; Exhibit 239 at 2.

104. ANC 3E opposed Project M because the proposed use of the building was "unclear even in the most general of terms," and because the proposed Campus Plan was inconsistent in its description of the size of Project M. Exhibit 71 at 2.

105. The Tenley Campus Neighbors Association opposed Project M on grounds that the building represented a substantial increase in the intensity of use of the Tenley Campus that would "dramatically and permanently alter the already threatened residential character" of the neighborhood. According to TCNA, Project M would be built at the highest point on the Tenley Campus, changing the view of the Tenley Campus from Yuma Street from the present mix of treetops, sky, and the top floors and roof of the Constitution building to an uninterrupted building façade. Exhibit 215 at 2.

106. TCNA also objected that Project M would increase the parking capacity at the Tenley Campus from the existing supply of approximately 85 spaces to 225, asserting that the increased traffic would increase noise and safety concerns for the neighborhood and that the University had not documented the need for the large increase – more than 160 percent – in parking capacity to address the parking needs of activities occurring solely at the Tenley Campus. Exhibit 223.

University-Neighborhood Agreements

107. The Neighborhood Associations and TCNA submitted testimony and evidence regarding certain agreements between the University and ANCs or neighborhood organizations. In addition to the 1989 Agreement incorporated into the 1989 Plan, the University executed an agreement in 1986 with ANC 3E concerning the Tenley Campus ("1986 Agreement"). In its Order conditionally approving the University's use of the Tenley Campus, the Board of Zoning Adjustment commented favorably on the 1986 Agreement, but did not specifically incorporate the agreement in the conditions enumerated in the Order. In that proceeding, the University's proposed use of the Tenley Campus was conditionally approved until the property was included within an approved campus plan. *See* BZA Application No. 14372, order dated September 10, 1986, at 6, 8. The Tenley Campus was included in the campus plan conditionally approved by the Board in 1989, without reference to the 1986 Agreement. *See* BZA Application No. 14640, order dated February 21, 1990.

108. The Applicant argued that the 1986 Agreement was superceded by the Board's Order that approved the 1989 Plan for both the Main and Tenley Campuses, which itself expired December 31, 2000. Exhibit 151 at 3. Similarly, the Applicant asserted that the 1989 Agreement, like the other conditions of approval included in the 1989 Campus Plan Order, expired with the expiration of the Order, and that the Zoning Commission does not have the authority to enforce a private agreement. Exhibit 76.

Further Processing Applications

109. In addition to approval of a new campus plan, the Applicant requested approval of three further processing projects.

Project L - Katzen Arts Center

110. The proposed Katzen Arts Center would house the University's Fine and Performing Arts Departments, containing space for art instructional programs, studio space for student artists, gallery space for art exhibitions, and a parking garage with approximately 550 spaces. The Katzen Arts Center, also designated Project L, would allow the University to consolidate facilities presently housed in six locations, and would replace the existing, outdated Cassell Building on the northernmost portion of the Main Campus, across Massachusetts Avenue from the majority of the academic, administrative, residential, and campus-life buildings. Exhibit 7 at 2.

111. As originally proposed, the Katzen Arts Center would have contained approximately 130,000 square feet of space, with a height of 30 feet to the building roofline and 45 feet to the top of the mechanical penthouse, set back between 35 and 60 feet from the nearest adjoining residential properties. The Applicant stated that substantial landscaping and trees would be planted to help buffer the visual impact of the building on the nearby residential properties. Exhibit 7 at 2, 33-34.

112. The Applicant submitted revised plans for the Katzen Arts Center on April 13, 2001. Proposed changes included a 10-foot reduction in height of the rotunda, a 9-foot reduction in the height of the building above the performance spaces, and removal of the third floor from the east side of the rotunda to the western edge of the building, approximately 275 feet, thereby reducing the building's height by approximately 14 feet. Exhibit 192.

113. The design of the proposed Katzen Arts Center was revised further in response to questions and comments from the Commission at its decision meeting on June 11, 2001. The Applicant proposed to use variations in the color and texture of the building exterior to emphasize vertical elements, thereby producing a less horizontal feel. The revised design, through the use of materials, fenestration, and color, was intended to break up the appearance of the Arts Center so that it would be perceived as three separate structures, while keeping the building connected for the efficient operation of the arts programs. Exhibit 234 at 9.

114. The Applicant's architect testified that the design and development of the Katzen Arts Center posed challenges with respect to achieving the academic mission of the University in the building, working within the constraints posed by a long, narrow site, and involving the community in the design of the building. The Applicant's testimony regarding the Katzen Arts Center included the following:

(a) Landscaping and buffering of the site: Plantings in front of the building along Massachusetts Avenue would replicate the existing informal shade trees. The western third of the site would remain undisturbed and the rear of the site, adjacent to the properties on Sedgwick Street, would include a heavy evergreen screen with a mix of broad leaf and needle evergreens, on a berm with an opaque fence. Feb. 15, 2001, Tr. at 64.

(b) Organization of the building: The northern side of the Arts Center (toward Sedgwick Street) was designed to have a minimal impact on the neighboring properties by locating the more active and public uses on the southern side of the building (toward Massachusetts Avenue). The gallery portion would be located closest to Ward Circle, and the middle section would include a plaza connecting the academic wing, furthest from Ward Circle. In academic wing, the classroom spaces would be located on the southern side of the building toward Massachusetts Avenue; the northern side of the building toward Sedgwick Street would contain the less-intensive uses. Feb. 15, 2001, Tr. at 66-69.

(c) Parking and loading: The below-grade parking structure would provide approximately 550 parking spaces on three levels. The entrance and exit to the garage would be located on Massachusetts Avenue, directly across from the Glover Gate. All loading and service deliveries would be made below grade and inside the building to prevent objectionable impacts to neighboring properties. Feb. 15, 2001, Tr. at 66-69.

(d) Elevations: The Massachusetts Avenue side of the building was designed to complement the Comprehensive Plan's designation of Massachusetts Avenue as a "Special Street," and, as the most public part of the Arts Center, would include the majority of the building's translucent glass and would create an active front. The rear, or northern side of the building, was designed to minimize any impacts on the Sedgwick Street properties and would have few windows. Feb. 15, 2001, Tr. at 70-71.

(e) Traffic and parking impact: The Katzen Arts Center would not have measurable impacts on peak traffic parking periods, in part because 200 of its 550 parking spaces would be designated for residential student use and 100 would be designated for visitor use. The garage would not be gate-controlled but would be monitored by University personnel checking for appropriate permits or parking passes.

115. According to the Applicant, the design of the Katzen Arts Center furthered many goals and policies of the Comprehensive Plan, especially those relating to the Environmental Protection Element, Urban Design Element, and the Preservation and Historic Features Element (Special Streets and Places). In particular, the Applicant testified that its Arts Center would promote a built environment that complements the natural environment (§ 701.1) and reinforce the "City in the Park" objective (§ 807.8); that the sidewalks, plaza, street plantings, sculptures, and water features would satisfy the goals of providing a coherent pedestrian environment (§ 709.01), would enliven the street scene (§ 807.7), and would be designed in concert with the proposed sculpture garden and new landscaping on the south side of Massachusetts Avenue on the Main Campus (§ 807.9). Exhibits 129, 132, 234 at 10.

116. The Office of Planning testified that the Applicant had made significant efforts to address community concerns about the proposed Katzen Arts Center, citing design and landscaping features intended to limit light and view impacts on nearby houses and a proposed new fence along the University property line. OP recommended approval of the Katzen Arts Center based on the University's revised plans and proposed conditions, noting that the successful design, construction, and operation of the building would require continuing coordination and cooperation between the University, the community, the Office of Planning, and other District agencies. Exhibit 52 at 38-40.

117. OP's recommended conditions for approval of the revised Katzen Arts Center proposal called for ongoing consultation and coordination with the community to ensure that design refinements did not have an adverse impact on the neighborhood, especially with respect to lighting and noise; a comprehensive landscaping program; installation of a security fence to discourage students and staff from parking on streets in the Fort Gaines neighborhood; and a comprehensive program to mitigate adverse impacts of the construction of the Katzen Arts Center on the Fort Gaines neighborhood. Exhibit 52 at 40-42.

118. OP testified regarding the consistency of the proposed Katzen Arts Center, as revised, with the Comprehensive Plan, including the Ward 3 Plan, considering its role as a "civic building" that is part of the "front yard" of the University and a gateway into the Spring Valley, Spring Valley Court, and American University Park neighborhoods. OP concluded that the Katzen Arts Center would be consistent with the Comprehensive Plan, including Chapter 8, "Preservation and Historic Features Element," and the Ward 3 Plan provisions on urban design. OP continued to recommend approval of the Katzen Arts Center, stating that the additional revisions to its design were significant in addressing community concerns and concerns expressed by the Commission. Exhibit 239 at 6-7.

119. ANC 3D stated that the proposed site was appropriate for an arts center. However both ANCs expressed concern regarding insufficient information on features relating to the appropriateness of the proposed building, such as the materials and colors to be used on the building exterior and how the large wall of windows would be screened at night to avoid a "downtown" impact inconsistent with other structures on Massachusetts Avenue. Exhibit 51 at 4; Exhibit 71 at 2-3.

120. The Neighborhood Associations described the proposed Katzen Arts Center as "a very large and ambitious building on a very limited site" that would be "dramatically different in visual impact, day and night, from all the buildings facing Massachusetts Avenue, . . . threatening the character of this important street . . . ." The Neighborhood Associations objected generally to the proposed Arts Center structure as being too large for the site, especially given its location on Massachusetts Avenue and abutting single-family residences, and urged the Commission to deny the application for further processing. Exhibit 141 at Exhibit C, 1.

121. The Neighborhood Association's architect, testifying as an expert witness, stated that the proposed building would be exceedingly long as well as excessively high relative to other buildings on campus and in the vicinity off-campus. Apr. 5, 2001, Tr. at 47-49.

Project G - Addition to Mary Graydon Center

122. Another further processing project, an addition to the Mary Graydon Center (designated Project G), will contain approximately 20,000square feet of gross floor area consisting primarily of two-stories, with a height of approximately 30 feet, and a small addition to a stair tower that will have a height of approximately 60 feet. The addition will be used to expand University Center functions and dining space, and will be consistent in appearance with the existing Mary Graydon Center and surrounding buildings. Exhibit 7 at 3, 33.

123. The Office of Planning recommended approval of Project G, which OP described as "an effective addition in terms of gaining usable space and providing an improved pedestrian connection." OP also noted that the proposed addition, located at the center of campus, would not affect adjacent neighborhoods. Exhibit 52 at 36.

Project I - Driveway Under Butler Pavilion

124. A third further processing project, enclosure of the driveway under Butler Pavilion (designated Project I), would allow the University to create approximately 20,000 square feet of area to be used for University Center functions, including retail shops, a mail center, and other services. The Applicant described the driveway enclosure as being consistent with the goals of the Campus Plan to reduce pedestrian/vehicle conflicts by diverting the flow of vehicular traffic from the center of the campus to the proposed outer campus ring road. Exhibit 7 at 33.

125. The Office of Planning also recommended approval of Project I as another step in the University's effort to enhance the center of the Main Campus and create a safe and inviting pedestrian-oriented environment. OP testified that the enclosure of the drive below the Butler Pavilion and Sports Center complex would not directly impact residential areas at the edge of the campus. Exhibit 52 at 37.

Conclusions of Law

The Applicant is seeking a special exception, pursuant to Sections 210 and 3104 of the Zoning Regulations, for approval of an updated campus plan for a period of 10 years, as well as special exception approval of three further processing applications pursuant to the new plan. The Commission is authorized to grant a special exception where, in the judgment of the Commission based on a showing through substantial evidence, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. D.C. Official Code § 6-641.07(g)(2) (2001), 11 DCMR § 3104.1. *See also* Z.C. Case No. 99-09, Order No. 932 amending 11 DCMR § 210.

The Zoning Regulations specify that use as a university in a residential zone shall be located so that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions. 11 DCMR § 210.2. Without the imposition of conditions contained in this Order, the Commission concludes that the Applicant has not met its burden of showing that its use of its property will not be objectionable to neighboring property. The conditions are necessary to minimize impacts from existing conditions and any potential impacts from planned future development. The University's planned future development would likely have an adverse impact on neighboring property if undertaken without the constraints imposed in this Order to set the parameters for the development of the campus over the term of the plan.

The Commission concludes that the Applicant's proposed campus plan is not unduly vague but expresses the University's plans for the Main and Tenley Campuses in general terms for the next 10 years. The University proposed 13 projects, including the three further processing applications, indicating their desired size, purpose, and location. In addition to making traffic and parking assessments, the University articulated its vision for the campus environment, including its plans to improve pedestrian access, place core academic functions at the center, relocate the campus road outside the core, enhance the campus green spaces, and continue

landscaping and beautification efforts. The University conducted adequate discussions with the affected ANCs and community organizations before submitting its proposed plan for approval. While the parties were unfortunately unable to reach agreement on many issues, those issues are now properly before the Commission for decision.

The Commission notes, and gives great weight to, the recommendation by the Office of Planning that the proposed Campus Plan and further processing applications should be approved subject to certain conditions designed to ensure that the University will conform to the requirements of Section 210 of the Zoning Regulations, especially §§ 210.2 and 210.7. The Commission has incorporated OP's recommended conditions into the conditional approval of the new campus plan. The Commission also notes and gives great weight to the recommendations of ANCs 3D and 3E, and has carefully considered the objections and recommendations of the affected ANCs in formulating the conditions of approval of the 2001 Campus Plan.

Boundaries and Population Caps

The Commission concurs with the Applicant that university uses are matter of right in commercial zones. *See* 11 DCMR § 701.6(f). However, the law school is in close proximity to both the Main and Tenley Campuses, and the activities of law students often extend to on-campus facilities and events, and affect campus-related traffic and parking. The Commission does not believe that the circumstances warrant a change in the boundaries of the University's campus for purposes of campus-plan approval. However, the Commission concludes that the impacts of the approximately 1,400 students attending the University's nearby law school must be taken into account to the extent that those impacts relate to the university uses allowed by special exception on a campus in a residential zone.

The student headcount and full-time equivalent population caps proposed by the University are not strictly identical to those in the 1989 Plan, as the Applicant asserts, because the 2001 proposal excludes law students from the calculation. The campus population caps properly exclude law students, in light of the law school's off-campus location. However, given the Commission's finding that law students continue to create on-campus impacts notwithstanding the off-campus location of the law school, those impacts must be taken into account when setting the campus population caps for the new campus plan. The population caps for students, both headcount and full-time equivalent, should be revised downward from the 1989 Plan to reflect that the University's law school remains in close proximity to the campus and operates in such a way that law students generate traffic, parking, and activity impacts at the University's campus. The impacts generated by law students on the campus would otherwise not be taken into account, with the exception of any law students who take classes on-campus and therefore would be included in the calculation of full-time equivalent students.

The Commission concludes that student population caps of 9,250 (FTE) and 10,600 (head count) are reasonable and appropriate, and therefore adopts those caps for purposes of the new campus plan. The newly adopted caps of 9,250 and 10,600 maintain the relationship between FTEs and headcount under the 1989 Plan; that is, the headcount will continue to exceed the FTE cap by 14.6 percent, as was the case under the 1989 Plan.

The Commission concludes that the staff population cap of 2,200 adopted in the 1989 Plan should be continued under the new plan. The law school staff was not shown to create the same impacts on campus since the law school moved off-campus, and the Commission finds no meaningful distinction between the Applicant's proposal – to continue the 2,200 staff population – and the Neighborhood Association's recommendation to limit the University's staff population to 2,193.

Housing

The Commission concurs with the Applicant that objectionable impacts on neighboring property are less likely when the University does not have a large number of students living off-campus in a concentrated geographic area. The Commission also finds persuasive the testimony of the Department of Public Works that traffic impacts associated with a university are lessened to the extent that the university provides adequate on-campus housing, thereby reducing the number of vehicle trips to and from the campus. The University must maintain its current percentages of on-campus housing; that is, to make housing available for 85 percent of its freshman and sophomore students and for two-thirds of all undergraduates. An adequate supply of on-campus housing is important to mitigate adverse impacts associated with the potential growth in undergraduate population allowed under the population cap.

Traffic and Parking

Based on the Applicant's traffic study, the Commission concludes that the University does not contribute a significant proportion of the traffic carried by the streets in the vicinity of the campus. Further, the Commission believes that future development of the Applicant's planned projects will not alter the traffic volume significantly, provided that the University continues its shuttle bus service and other elements of its transportation management plan.

The Commission also concludes that the parking provisions of the proposed Campus Plan are reasonable and not likely to create objectionable impacts. The Applicant demonstrated that on-campus parking is available in sufficient quantity to serve the demand created by students, staff, and campus visitors. An increase in parking supply from almost 2,500 spaces to approximately 2,900 parking spaces is sufficient to handle the increase in parking demand associated with new development over the term of the new plan, given the University's continued commitment to a viable Transportation Management Plan that encourages alternative forms of transportation and off-peak trips to the campus.

The Commission also concludes that the University may count the spaces in the parking lot of the Metropolitan United Methodist Church toward the supply of on-campus parking, given the close proximity of the church lot to the campus and the University's long-standing agreement with the church to share parking on an as-needed basis. Reflecting the addition of the church parking lot to the campus inventory, the Commission concludes that the number of on-campus parking spaces should not decrease below the number of spaces currently available. Accordingly, the Applicant shall maintain at least 2,523 parking spaces on campus, including those on the church parking lot.

While the new plan calls for an increase of almost 500 new parking spaces over the life of the plan, the Commission is concerned about the continued availability of an adequate supply of parking while the new projects are under development. The University provided assurances that the construction projects would be phased so that the overall supply of parking spaces would not be diminished while some surface lots are eliminated and new garages are constructed.

In light of the persistent University-related parking generated by students, staff, and visitors on neighborhood streets in the vicinity of both the Main and Tenley Campuses, the Commission concludes that the University must enhance its parking program to address off-campus parking. The University has proposed an off-campus parking enforcement program similar to that adopted by the Board of Zoning Adjustment for the Mount Vernon Campus of George Washington University. The Commission concurs that implementation of such measures is important to mitigate adverse impacts associated with University-related parking on neighborhood streets surrounding the campus, and therefore adopts Condition No. 7.

Circulation

The Commission concurs with the Applicant and the Office of Planning that the reorganization of the Main Campus, especially the relocation of the Campus Road and the enhanced green space, will improve the campus environment. While the relocation of the Campus Road will be a significant improvement for pedestrians, the Commission is concerned about the potential adverse impact of campus traffic on residents living near the relocated road. The Commission concurs with OP, ANC 3D, and the Neighborhood Associations that the University should be required to implement adequate landscaping and other appropriate measures to ensure that traffic on the Campus Road remains at a low volume and that noise and light effects are sufficiently mitigated. These requirements are established in Conditions No. 13 and 14.

Liaison Committee

The Commission also concurs with the Applicant and the Neighborhood Associations that a Liaison Committee, comprising representatives of the University and the surrounding neighborhoods, can provide a useful forum for on-going discussions of campus-plan issues. Accordingly, the Commission adopts Condition No. 6. The Commission declines to require the Applicant to create an arbitration process as part of the Liaison Committee, as requested by the Neighborhood Associations. However, as the Neighborhood Associations note, an arbitration process can be established by agreement between the University and neighborhood organizations, if the parties so choose. *See* Exhibit 141 at 7.

Projects

With regard to the various projects included in the proposed campus plan, the Commission does not decide in this Order whether to grant final approval, except for the further processing applications, but has instead considered whether the projects are appropriate for inclusion in the approved campus plan given their building size, location, and any currently foreseeable adverse impacts.

The Commission concludes that Projects A and B should be included, subject to the recommendations of the Office of Planning and with a maximum size specified. These specifications are reflected in Condition No. 10(a) and (b).

With respect to Project C, the Commission concludes that the Applicant's proposal is likely to create adverse noise impacts due to the number of new bleacher seats and their orientation toward the neighboring residences. However, with a reduction in the size of the bleachers to 250 seats, and with their construction on the ground, arranged in three horizontal rows facing the campus rather than the nearby houses, the Commission concludes that Project C is appropriate for inclusion in the new campus plan.

With regard to Projects D and E, the Commission concludes that the Applicant's proposal is appropriate for inclusion in the new campus plan subject to limits on height and other specifications listed in Condition No. 10(d). These specifications are sufficient to address the Ward 3 Element of the Comprehensive Plan as well as the concerns of the Office of Planning and the Neighborhood Associations with respect to building setbacks from Nebraska Avenue, traffic impacts, and the streetscape along Nebraska Avenue.

Project F is also acceptable for inclusion in the campus plan, up to a maximum height of 60 feet and a maximum size of 100,000 square feet, subject to the recommendations of the Office of Planning. Similarly, Projects H and J are appropriate, subject to the conditions specified by the Office of Planning. Specifications for Projects F, H, and J are enumerated in Condition No. 10 (e), (f), and (g).

With regard to Project K, the Commission shares the concerns of the Office of Planning, ANC 3D, and Neighborhood Associations about the relationship of the proposed building with the existing President's Office Building as well as about the existing topography and design of the proposed building, given the prominence of its site on Massachusetts Avenue. The Commission notes that the Board of Zoning Adjustment approved a building of 15,000 square feet for the same location in the 1989 Plan, and that the President's Office Building contains 5,500 square feet of space. *See* Exhibit 25. In addition, the Urban Design provisions of the Ward 3 Element of the Comprehensive Plan provide strong guidance about importance of relating the mass and scale of new structures with those of existing buildings. *See* 10 DCMR § 1406.9.

The Commission concludes that a building of 50,000 square feet, as proposed by the Applicant, would be too large and out of scale for the designated location, and instead approves for inclusion in the Campus Plan a maximum size for Project K of 20 feet in height and 15,000 square feet of area, subject also to the recommendations of the Office of Planning. This conceptual approval of Project K applies as well to the Applicant's proposal to construct a 400-space parking garage below grade as part of Project K to replace existing parking spaces such as those in the Sports Center garage or surface lots that would be converted to other uses. Specifications for Project K are enumerated in Condition No. 10(h).

Finally, Project M is acceptable for inclusion in the campus plan, as revised by the Applicant to reduce its size to 75,000 square feet and subject to the conditions recommended by the Office of Planning. *See* Condition No. 10(i). The proposed mix of uses is appropriate for the Tenley

Campus, and, with the conditions related to light, noise, building design, and landscaping, conceptual approval of the project will not tend to adversely affect neighboring property. Further, the requirements to include residential space in the mixed-use development and to reserve 34 parking spaces for students – 15 percent of the proposed 225 spaces, the same percentage as on the Main Campus – will help mitigate adverse impacts associated with more intensive use of the Tenley Campus in the future.

The Commission concludes that no objectionable impacts on neighboring property will result from the conceptual approval of the Applicant's proposed Projects A through F, H, J, K, and M, subject to the requirements specified in Condition No. 10. In any future further processing applications, the Applicant will be required to demonstrate that each project complies with the special exception criteria and that no adverse impacts will result from a project as designed within the parameters specified by the Commission in this Order.

Further Processing

The Applicant is seeking special exceptions under §210 of the Zoning Regulations for further processing of an approved campus plan to allow the construction and use of the Katzen Arts Center, an addition to the Mary Graydon Center, and the enclosure of the driveway underneath the Butler Pavilion and Sports Center Complex. The Commission is authorized to grant a special exception where, in the judgment of the Commission based on a showing through substantial evidence, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps, subject to certain conditions specified in §210. D.C. Official Code § 6-641.07(g)(2) (2001), 11 DCMR § 3104.1.

The Commission approves special exceptions for the addition to the Mary Graydon Center and the enclosure of the driveway underneath the Butler Pavilion and Sports Center Complex. Both of these projects are consistent with the Applicant's use of its property for university purposes, are consistent with the Zoning Regulations and Maps, and will not tend to affect adversely the use of neighboring property. The record reflects no objections to the Mary Graydon Center expansion project (Project G) or to the enclosure of the road under the Butler Pavilion (Project I) from the Office of Planning, the affected ANCs, or the Neighborhood Associations.

The Commission also approves a special exception for the Katzen Arts Center, subject to the conditions enumerated in this Order. Use of the site by the University as an arts center is 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 given the University's compliance with requirements that will minimize potential adverse impacts associated with light, noise, and hours of operation. The building originally proposed by the Applicant was substantially revised during the course of this proceeding. The Commission concludes that the final proposal, as conditioned, represents a building design and use that is consistent with the Comprehensive Plan and will not adversely affect the use of neighboring property.

The Katzen Arts Center represents the University's effort to create a signature building, as exemplified by its size and quality of design, that will signal the presence of the campus. The

parties in opposition to the further processing application did not object to use of the site as an arts center. Rather, the concerns expressed by the ANCs and the Neighborhood Associations related to the size of the building – its height, length, and massing – as well as perceived adverse impacts associated with light, noise, landscaping, and the design of the building with respect to its location on Massachusetts Avenue, designated a "special street" in the Comprehensive Plan.

The Commission is not persuaded by the testimony of the parties in opposition. The building location is an important urban site on Massachusetts Avenue and abutting Ward Circle, a very large, open circle. These factors militate against an unduly strict reading of the Ward 3 Urban Design guidelines that prescribe new construction consistent with nearby existing buildings. The Katzen Arts Center will be compatible with the existing university uses in the vicinity, and the importance of the building location warrants construction of a structure that is larger and more imposing than the adjacent single-family detached houses located off-campus north of the site.

Especially considering the difficulties inherent in the long, narrow site, the Commission concludes that the architecture of the Katzen Arts Center avoids a box-like, undifferentiated mass because of the topography of the site and through the use of appropriate building materials, fenestration, and landscaping features. Other design revisions submitted by the Applicant serve to lessen potential adverse impacts associated with the Katzen Arts Center on neighboring property. The building height was reduced, and some features were moved below grade, such as loading functions and some practice rooms for music students, thereby minimizing potential noise impacts. These modifications, along with conditions requiring a fence at the rear of the site, specifying landscaping improvements, limiting hours of operation, and imposing lighting requirements, ensure that neighboring property will not be adversely affected by noise or other potential impacts of the Katzen Arts Center.

Motions

As stated during the course of these proceedings, the Commission concludes that all of the various motions filed by the Neighborhood Associations are without merit and therefore are denied. The Commission concludes that the Applicant fully satisfied its rules relating to service of filings on other parties. *See* 11 DCMR § 3111. Notice of the scheduled public hearing was properly given with respect to the Main Campus, as the required notice was properly posted on the campus. *See* Exhibits 28 and 79; 11 DCMR § 3113.20. The Commission notes that numerous residents of the neighborhood bordering the Tenley Campus claimed they did not receive timely notice of the public hearing. However, no parties were prejudiced by any failure to give proper notice, because TCNA was granted party status once the neighbors became aware of the hearing, and because the public hearing sessions up until that time concerned only the Main Campus. Thus, TCNA was able to participate fully in the proceeding on issues relating to the Tenley Campus.

The Neighborhood Associations requested a ruling regarding "whether and to what extent an Order at the conclusion of the pending Campus Plan application case will replace earlier Orders." While noting that the earlier orders dealt with "a broad variety of matters," the Neighborhood Associations argued especially that the University violated the Order conditionally approving the 1989 Plan by requesting a further processing special exception for a

new building on the north side of Massachusetts Avenue before January 1, 2002. *See* Exhibit 108 at 1-2. Similarly, with respect to the Tenley Campus, TCNA argued that the proposed 2001 Campus Plan violated the 1986 Agreement, which imposed restrictions on the University to ensure its low-intensity use of the campus and to minimize the impact of the Tenley Campus on the surrounding neighborhood.

The 1989 Plan adopted the 1989 Agreement by reference; the terms and conditions of the 1989 Agreement were incorporated in the Board's 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." *See* Condition No. 5, 1990 Order at 30. *See also* BZA Application No. 14640, Clarification Order, July 31, 1992. The 1989 Plan applied to the Tenley Campus as well as the Main Campus, but the 1986 Agreement was not specifically addressed in the Board's Order. Nor was the 1986 Agreement specifically adopted by the Board as a condition of approval of the University's special exception application allowing its use of the Tenley Campus.

Approval of the 1989 Plan was granted "through the year 2000." 1990 Order, Condition No. 1, at 29. Expiration of the 1989 Plan on December 31, 2000 meant that the University was no longer eligible to submit applications for further processing under that plan, but would be required to obtain approval of a new campus plan before any new further processing application could be considered. So long as the approval is sought in a timely manner, the University continues to operate under, and in accordance with, the prior plan until a new plan is approved. Simultaneous applications for approval of a new campus plan and for further processing under that plan are permitted under the Zoning Regulations, provided that the proposed campus plan is approved.

For purposes of its review of the University's application for approval of a new campus plan, the Commission is not bound by the decision of the Board in approving the prior, now expired plan. Because the Board has no authority to bind a future Zoning Commission with respect to matters beyond the term of an approved campus plan, the Commission may consider the University's application as a new proceeding, in which a decision must be based on substantial evidence in the record of that proceeding. The Commission concurs with the Applicant's assertions that the 1989 Agreement "cannot extend the life of the prior campus plan" and that "[a]ny conditions which the parties believe should be included for the next ten years must be specifically addressed in the record of this case and incorporated by the Zoning Commission in its new order." Exhibit 109, Response of American University to Legal Issues Raised by Opposition, at 4.

The Commission concludes that the effectiveness of the 1989 Agreement, as a condition of campus plan approval, ended for zoning purposes upon the effective date of this Order. The zoning relevance of the 1986 Agreement is even more tenuous, as that agreement was not formally adopted by the Board either in its Order conditionally granting the University a special exception to use the Tenley Campus or in the 1990 Order conditionally adopting a new campus plan applicable to the Tenley Campus. The Commission is guided by, but not bound by, the prior decision of the Board in approving the 1989 Plan, given that the term of the 1989 Plan ended December 31, 2000. The Commission expresses no opinion with respect to whether the 1986 and 1989 Agreements remain in effect as contracts enforceable privately by the parties.

The Neighborhood Associations' motion seeking to strike the Applicant's closing statement from the record is also denied. The Commission concurs with the Applicant that the filing was proper and did not violate due process rights. The Zoning Regulations do not allow other parties to respond to or cross-examine the closing statement made by an applicant, who bears the burden of proof.

The other motions filed by the Neighborhood Associations are also denied. The Commission believes that the continued participation of Commissioner Herbert Franklin in this proceeding is proper. The Zoning Act does not require the Architect of the Capitol to designate only one person to serve on the Zoning Commission at any given time; rather, the Architect may designate a person or persons to serve for a specified period or to serve for specified proceedings. *See* D.C. Official Code § 6-621.01(a) (2001). The Architect has formally done so by continuing to employ Commissioner Franklin specifically for the resolution of case in which he has participated in the hearings. Accordingly, the Commission concludes that the Zoning Act authorizes the continued participation of Commissioner Franklin, notwithstanding that another designee has been made by the Architect of the Capitol for other proceedings.

With regard to the request by the Neighborhood Associations for publication of a proposed order for the parties' comments prior to its issuance in final form, the Commission notes that proposed orders are not contemplated by the applicable rules of procedure. Similarly, the rules do not permit the reopening of the record, such as to receive evidence of the University's rental of housing in neighborhoods adjacent to the campus, on the motion of any party. Instead, parties may seek clarification, reconsideration, or rehearing of the Commission's final order through a timely filed motion filed pursuant to 11 DCMR § 3126.

The Commission denies the Neighborhood Associations' motion for a hearing on the Applicant's revised design of the Katzen Arts Center submitted in response to the Commission's questions at the June 11, 2001, decision meeting. The revised design submitted by the Applicant was evaluated by the Commission; the drawings did not require, and did not lend themselves to, cross-examination by the parties to develop additional facts that would enable the parties to better present their positions with respect to the further processing application for the Katzen Arts Center, or enable the Commission to better understand the revised design or its implications in accordance with the special exception criteria. The parties were given ample opportunity to discuss the merits of these revisions in their post-hearing statements. The Commission concludes that, under these circumstances, no additional hearing is required under the D.C. Administrative Procedure Act. *See* D.C. Official Code § 2-509 (2001).

Accordingly, it is **ORDERED** that the application for approval of a new campus plan is **GRANTED SUBJECT** to the following **CONDITIONS**.

1. Approval of the Campus Plan shall be until August 15, 2011.

2. The approved Campus Plan boundary shall be the Main and Tenley Campuses as shown in the American University 2000 Campus Plan and marked as Exhibits 7 and 7A in the record.

3. Student enrollment (headcount) over the life of the plan shall not exceed 10,600 students and the full-time equivalent shall not exceed 9,250 students. The number of employees shall not exceed 2,200.

4. The Applicant shall maintain a supply of on-campus housing sufficient to make housing available for 85 percent of its full-time freshman and sophomore students (headcount) and for two-thirds of all full-time undergraduates (headcount).

5. Campus facilities built for instructional purposes (such as classrooms, laboratories, and conference rooms) may, from time to time, be used for conferences; however, any purpose-built conference facility proposed to be constructed by the Applicant on campus shall require amendment of the Campus Plan and specific approval of the conference-facility use through the special exception process.

6. The University shall work with community representatives to form a Liaison Committee for the purpose of fostering consistent on-going communication between the University and the surrounding neighborhoods, discussing issues of mutual interest, and proposing solutions to problems that exist or arise in implementing the approved campus plan. It is recommended that the Liaison Committee be composed of an equal number of representatives of the University and the community and meet as necessary, but at least quarterly. Upon request, the University shall provide timely data relevant to campus plan issues to the Liaison Committee, provided that the data is not confidential or overly burdensome to produce.

7. The University shall adopt the following program regarding enforcement of student, faculty, staff, and vendor off-campus parking:

   (a) The University shall use its best efforts to require all students, faculty, staff, and vendors servicing the campus to park on the campus and shall prohibit, to the extent permitted by law, students, faculty, staff, and vendors from parking on the streets adjacent to and surrounding the campus. The University shall use its best efforts to cause other University-related vehicles to park on the campus. To accomplish these purposes, the University shall have in place a system of administrative actions, contract penalties, and fines (which may be adjusted from time to time as needed), and/or termination of contracts for violations.

   (b) Construction employees, contractors, and subcontractors shall by contract be prohibited from parking on residential streets, subject to contractual penalties or termination. Visitors to the campus, including attendees of all conferences, shall be encouraged to use on-campus parking and, where feasible, notified in advance to do so.

   (c) For conferences and large special events, the Applicant shall work with area institutions in order to provide additional parking as needed.

8. In light of the Applicant's decision to allow students at the Tenley Campus to bring their vehicles to the campus, the Applicant shall designate at least 12 of the 76 existing parking spaces at the Tenley Campus for student use.

9. The University shall submit to the Commission, as a special exception, each individual request to construct a building or structure described in the Campus Plan. Along with each request, the University shall submit information as to how the particular building or structure complies with the Plan, as well as an updated traffic analysis and a report indicating the supply of on-campus housing, the number of full-time undergraduate students, and the number of full-time freshman and sophomore students.

10. The Applicant shall not construct more than 400,000 square feet of new gross floor area during the term of this Campus Plan. Any further processing application for a project approved conceptually in this Campus Plan shall incorporate the following development guidelines and parameters:

    (a) Project A:
        (i) the building height shall not exceed 40 feet and its gross floor area shall not exceed 30,000 square feet;
        (ii) the design shall be residential, rather than institutional, in character and scale;
        (iii) the building shall relate to the existing topography to limit visibility impacts (*e.g.*, built into the hill between the Watkins and Kreeger buildings);
        (iv) the Applicant shall provide ample landscape buffer, especially with respect to the residential area down the hill to the south;
        (v) the Applicant shall implement a plan for lighting (interior and exterior) that reduces external visual impacts on neighborhood properties; and
        (vi) noise-generating activities (*e.g.,* air conditioners) shall be enclosed or placed at the farthest point away from neighbors.

    (b) Project B:
        (i) the building height shall not exceed 40 feet in height and its gross floor area shall not exceed 50,000 square feet;
        (ii) the building design shall be residential, rather than institutional, in character;
        (iii) the building shall use existing topography to limit visibility impacts (*e.g.*, built into the hill);
        (iv) the Applicant shall provide ample landscape buffer, especially with respect to the houses along Rockwood Parkway, down the hill to the south;
        (v) the Applicant shall implement a plan for lighting (interior and exterior) that reduces visual impacts; and
        (vi) noise-generating activities (*e.g.*, air conditioners) shall be enclosed or placed at the farthest point away from neighbors.

(c) Project C shall include no more than 250 new permanent bleacher seats, constructed on the ground and arranged horizontally in three rows facing the nearby residences.

(d) Projects D and E:
- (i) the height of the buildings shall not exceed 60 feet and gross floor area shall not exceed 100,000 square feet for Project D or 80,000 feet for Project E;
- (ii) the buildings shall be set back from Nebraska Avenue the same distance as Hurst Hall;
- (iii) the Applicant shall provide trees and softscape to enhance the special character of Nebraska Avenue;
- (iv) the Applicant shall work with District of Columbia agencies, neighboring property owners, and the community to develop a detailed streetscape plan for Nebraska Avenue from north of Ward Circle to Rockwood Parkway, incorporating the provision for widening Nebraska Avenue, using the University's property, to add a fifth lane for turning movements; and
- (v) the Applicant shall design ramps to the parking garage under each building to minimize their impact on Nebraska Avenue traffic from turning movements.

(e) Project F:
- (i) the building height shall not exceed 60 feet and gross floor area shall not exceed 100,000 square feet;
- (ii) the Applicant shall implement a plan for lighting (interior and exterior) that reduces visual impacts;
- (iii) the Applicant shall provide ample buffering and vegetation;
- (iv) noise-generating activities (*e.g.*, air conditioners) shall be enclosed or placed at the farthest point away from the residential area on University Avenue and the adjacent areas; and
- (v) the Applicant shall utilize a quality design that minimizes visual impacts from residential areas to the west.

(f) Project H:
- (i) the garage façade shall be constructed of a material that complements the design of adjacent buildings;
- (ii) the Applicant shall implement a plan for lighting (interior and exterior) that reduces visual impacts; and
- (iii) the Applicant shall allow use of the Sports Center garage for parking until an equal number of parking spaces are constructed and open to cars elsewhere on campus.

(g) Project J:
- (i) the building height shall not exceed 25 feet and gross floor area shall not exceed 10,000 square feet;

(ii) the Applicant shall utilize a high-quality building design that complements the Massachusetts Avenue corridor; and
(iii) the Applicant shall improve the landscape setting.

(h) Project K:
(i) The building height shall not exceed 20 feet and gross floor area shall not exceed 15,000 square feet;
(ii) the building design shall preserve the scale of the President's Office Building;
(iii) the integrity of the existing topography shall be protected;
(iv) the visual quality of the President's Office Building and setting shall not be adversely affected; and
(v) the project shall be designed with consideration of the Massachusetts Avenue visual corridor.

(i) Project M (on Tenley Campus):
(i) The building height shall not exceed 40 feet and the building shall contain a maximum of 75,000 square feet of gross floor area;
(ii) The building shall include residential use and shall provide housing for a maximum of 200 students;
(iii) The underground parking garage shall contain a maximum of 200 parking spaces to supplement 25 surface parking spaces;
(iv) At least 34 parking spaces of the 225 spaces shall be designated for use by students residing at the Tenley Campus;
(v) The building shall be residential, rather than institutional, in design character;
(vi) The Applicant shall provide ample landscape buffer with open space;
(vii) The Applicant shall implement a plan for lighting (interior and exterior) that reduces visual impacts; and
(viii) Noise-generating activities (*e.g.*, air conditioners) shall be enclosed or placed at the farthest point away from neighbors.

11. The University shall implement its "Neighborhood Action Program" to address off-campus conduct by students living in neighborhoods adjacent to the campus. This program shall include the following:

(a) The University shall promote its "Good Neighbor Guidelines" through student workshops sponsored by the Off-Campus Housing Office.

(b) The University shall publicize its 24-hour crime reporting system, which includes a Crime Tips Hotline, a Public Safety non-emergency line, a Public Safety emergency line, and the phone number of the Dean of Students Office.

(c) Subject to applicable laws, in situations where a student's misconduct poses a substantial danger to themselves or others, or there is a violation of District of

Columbia or federal law, the University shall seek to charge students under its Student Conduct Code. In all other cases, the University shall investigate and address student misconduct through procedures described in its Neighborhood Action Program, which include receiving and investigating complaints from neighbors; identifying whether the residents of particular property are university students; meeting with residents and informing them of University policies, Student Conduct Code violations, and legal consequences of such behavior; and contacting neighbors periodically to determine the status of the situation.

12. The Applicant shall direct its students to register their vehicles in the District of Columbia, or obtain a reciprocity sticker if eligible to do so. The Applicant shall direct its students to provide proof of compliance with D.C. registration requirements, if applicable, and shall withhold parking privileges from students who do not comply with D.C. registration requirements. Failure to abide by District law concerning registration of student vehicles shall constitute a violation of the Student Conduct Code.

13. The University shall adopt the following Campus Lighting Plan:

    (a) All new outdoor lighting fixtures shall be designed, located, and installed so as to avoid the extension of spotlights beyond the boundaries of the campus.

    (b) All lighting fixtures installed inside new campus buildings shall be equipped with motion sensors that turn the lights off when not in use, except for lighting fixtures installed in common areas or in other locations where constant lighting is needed for security or other reasons.

    (c) Spotlights and outdoor lighting, both new and existing, shall be directed inward, downward, and away from the campus perimeter, and shielded when necessary to avoid lighting on the outside of the perimeter, to avoid objectionable impacts on neighboring property.

    (d) Energy-efficient lighting shall be used to illuminate roadways, parking lots, pedestrian walkways, and building exits, in order to achieve legitimate security requirements. Such lighting shall be shielded to prevent spotlights from extending beyond the campus boundary.

    (e) Additional landscape screening shall be installed along the west elevation of the Watkins Building to further buffer those views.

    (f) Lighting at the rear of the Katzen Arts Center shall be minimized due to the absence of access points and shall be shielded downward, consistent with minimum requirements of security.

14. The University shall implement the landscape plans submitted as Exhibits 93, 129, 151, and 213, including the proposed landscaping surrounding the interior ring road and the

Katzen Arts Center. The University shall maintain all of the landscaped areas of the campus.

15. To the extent that the University's athletic fields on the western edge of the campus are used for special events, such as graduation, homecoming, picnics, receptions, or charitable events, the special events shall be conditioned as follows:

(a) Number of events: The number of special events requiring sound amplification systems shall be limited to 12 per calendar year, unless an additional number is approved by the Liaison Committee. The University shall provide neighboring property owners with telephone numbers to reach appropriate representatives of its Public Safety Department, or the Dean of Students Office, to address concerns regarding noise and activity on the intramural athletic field.

(b) Notice: The University shall use its best efforts to provide written, fax, or e-mail notice of special events – as far in advance as possible, but at least 30 days prior to an event – to residents in the vicinity of the athletic fields, to residents on Woodway Lane and University Avenue, and to any other residents who request notice or whose names are supplied to the University by the Liaison Committee. Events not requiring notice include intercollegiate or intramural sports events, informal athletic events, or similar recreational activities so long as such activities involve and are for the benefit of student teams or other groups of the University.

(c) The University shall use its best efforts to avoid scheduling a special event for a date on which a neighbor has informed the University in advance that the neighbor is planning a party or other important occasion.

(d) Guidelines: The University shall use its best efforts to observe the following guidelines relating to special events on the athletic fields:

(i) Special events will be conducted between the hours of 8:00 a.m. and dusk;
(ii) Sound amplification at special events produced by public address systems, loudspeakers, bullhorns, musical amplifiers, or other similar devices for the intensification of sound shall not be permitted unreasonably to interfere with or disturb neighbors' enjoyment of their property or with the University's academic or administrative activities;
(iii) Vehicles essential for servicing the special events may park in the western parking area closest to the field, but only if other parking locations are not feasible, and in no event shall service vehicles park next to adjacent residences;
(iv) If an unauthorized special event (an event not scheduled by the University) occurs, neighbors may contact the designated University staff contact person; and
(v) Guidelines shall be provided to, and made part of, any arrangement between the University and the organization sponsoring the special event or the department or student group sponsoring the event.

(v) Guidelines shall be provided to, and made part of, any arrangement between the University and the organization sponsoring the special event or the department or student group sponsoring the event.

16. At the time the University files a permit application with the Department of Consumer and Regulatory Affairs for ground clearance, excavation, or other major construction that would implicate remedial work performed at or around the campus by the Army Corps of Engineers, the University shall provide notification to the D.C. Department of Health, the Army Corps of Engineers (Baltimore Office), and the U.S. Environmental Protection Agency, Region 3, that the University intends to undertake such activities.

17. No special exception application filed by the University for further processing under this plan may be granted unless the University proves that it has consistently remained in substantial compliance with Conditions 1 through 16 set forth in this Order. Any violation of a condition of this Order shall be grounds for the denial or revocation of any building permit or certificate of occupancy applied for by, or issued to, the University for any University building or use approved under this plan, and may result in the imposition of fines and penalties pursuant to the Civil Enforcement Act, D.C. Official Code §§ 2-1801.01 to 2-1803.03 (2001).

18. The Applicant shall prepare a revised campus plan that is consistent with this Order, accompanied by a table of changes that lists each page on which a change appears and describes each change. The Applicant shall submit an original and 10 copies of the revised plan to the Commission no later than 90 days from the effective date of this Order, and shall, on the same day, serve a copy of the revised plan and table of changes on each party to this proceeding. Each party shall have 30 days in which to submit to the Commission, and to serve on all other parties, its comments on the Applicant's proposed changes. Comments on the revisions shall be strictly limited to whether the revisions correctly and clearly reflect the Order. After review of the Applicant's proposed revised plan and the parties' comments, the Commission shall determine whether further proceedings are warranted or shall certify the revised plan as the approved campus plan. The revised plan shall be deemed approved 60 days after submission, absent action by the Commission before that date. Copies of the approved plan shall be maintained in the Office of Zoning and the Office of the Zoning Administrator.

VOTE: **4-0-1** (Carol J. Mitten, Anthony J. Hood, Herbert M. Franklin, and John G. Parsons to approve; Kwasi Holman not present, not voting)

It is **ORDERED** that the application for Further Processing approval, under the approved campus plan, of the Katzen Arts Center is **GRANTED SUBJECT** to the following **CONDITIONS**.

1. The Katzen Arts Center building shall be sited on the property as shown in Exhibit No. 192 and will be set back from the rear (north) property line 25 feet at the east end and 65 feet at the west end of the building.

be enclosed in penthouses with louvers oriented to the south (toward Massachusetts Avenue). Garage exhaust outlets shall be located on the south side of the building. The equipment will be designed to minimize noise and will comply with applicable District of Columbia noise standards.

3. Music practice rooms shall have no window or shall be located in below-grade space to ensure that noise is contained.

4. A 550-space parking garage shall be located under the building, with parking spaces allocated as follows:
   i. 200 spaces for resident students;
   ii. 150 spaces for commuting students;
   iii. 100 spaces for employees; and
   iv. 100 spaces for visitors.

5. There shall be two driveways to the garage, both on Massachusetts Avenue. The main driveway shall be located across from Glover Gate and the secondary driveway shall be at the western end of the building. The secondary driveway shall be primarily used for service access and to accommodate exiting from events or other special circumstances. The garage entrances shall be limited to a single lane in each direction.

6. Loading docks, trash removal, and other service activities shall be located below grade and within the building to minimize noise. All deliveries and trash pickups shall occur between 7:30 a.m. and 7:30 p.m., Monday through Friday, and 9:00 a.m. and 6:00 p.m., Saturday and Sunday.

7. A landscape screen of evergreen and deciduous trees, as shown in Exhibits No. 93 and 129, shall be installed along the north side of the building to screen views of the building from neighboring residences.

8. A six-foot wood board fence or brick wall, the details to be coordinated with the adjacent property owners, shall be installed on the rear (north) property line. A gate shall be installed near the Nebraska Hall connection with access controlled by mechanical or electronic keys. The University shall provide keys (unique to this gate only) to a neighborhood representative for distribution to neighboring residents. An emergency telephone and lighting shall be installed at the gate. A mechanism to automatically notify the University Public Safety office if the gate is propped open shall also be installed. The landscape buffer and fence shall be installed prior to the occupancy of the building.

9. Normal Arts Center hours of operation shall be 8:00 a.m. to 11:00 p.m. throughout the week. Selected students, faculty, volunteers, and employees may have 24-hour access to the building. The parking garage shall operate 24 hours per day. The service entrance shall operate 7:30 a.m. to 7:30 p.m. except for special Arts Center events. A staff liaison to address concerns and answer questions and a 24-hour telephone contact for reporting problems shall be established.

to address concerns and answer questions and a 24-hour telephone contact for reporting problems shall be established.

10. The University shall provide security patrols of the Arts Center and Nebraska Hall by Campus Security.

VOTE: **4-0-1** (Carol J. Mitten, Anthony J. Hood, Herbert M. Franklin, and John G. Parsons to approve; Kwasi Holman not present, not voting)

It is **ORDERED** that the application for Further Processing approval, under the approved campus plan, of the addition to the Mary Graydon Center is **GRANTED** consistent with the plans submitted as Exhibits No. 7 and 7A.

VOTE: **4-0-1** (Carol J. Mitten, Anthony J. Hood, Herbert M. Franklin, and John G. Parsons to approve; Kwasi Holman not present, not voting)

It is **ORDERED** that the application for Further Processing approval, under the approved campus plan, of the enclosure of the campus road under the Butler Pavilion is **GRANTED** consistent with the plans submitted as Exhibits No. 7 and 7A.

VOTE: **4-0-1** (Carol J. Mitten, Anthony J. Hood, Herbert M. Franklin, and John G. Parsons to approve; Kwasi Holman not present, not voting)

BY ORDER OF THE ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

Each concurring member has approved the issuance of this Summary Order.

ATTESTED BY: Jerrily R. Kress

JERRILY R. KRESS, FAIA
Director

FINAL DATE OF ORDER: JAN - 8 2002

PURSUANT TO 11 DCMR § 3125.6, THIS 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 STRUCTURES 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 Repl.). 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.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.