

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. [Order Number]**

Z.C. Case No. 06-11B/06-12B

**(Second Stage Planned Unit Development (“PUD”) and
Further Processing of an Approved Campus Plan)
The George Washington University Foggy Bottom Campus – Square 55)**

[Date of Final Action]

Pursuant to notice, the Zoning Commission for the District of Columbia (the “Commission”) held a public hearing on March 24, 2011, to consider an application of The George Washington University (the “University”) for the review and approval of the second stage of an approved PUD and further processing of an approved campus plan. The Commission considered the application pursuant to Section 210, Chapter 24, and Chapter 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. The Commission approves the application, subject to the conditions below.

FINDINGS OF FACT

Application, Parties, and Hearing

1. The property that is the subject of the application is located in Square 55, Lots 28 and 857 (the “Property”).¹
2. In November 2010, the University submitted an application for second stage PUD approval of the Property. The University sought approval to develop an eight-story Science and Engineering Complex (“SEC”) as an interdisciplinary and multidisciplinary teaching and research environment for the University’s science and engineering programs. The University concurrently requested further processing approval of its approved campus plan to construct the new facility. (Exhibit .)
3. The application was set down for a public hearing at the Commission’s December 13, 2010 public meeting. Notice of the public hearing was published in the D.C. Register on _____ (_____) and was mailed to Advisory Neighborhood Commission (“ANC”) 2A and to owners of property within 200 feet of the second stage PUD site.
4. A public hearing was conducted on March 24, 2011. The Commission accepted Craig Spangler as an expert in the field of architecture, Jami Milanovich as an expert in the field of traffic engineering, and Andi Adams as an expert in the field of historic preservation. The University provided testimony from these experts as well as from Dr.

¹ Concurrently with the Zoning Commission review process, the Property was subdivided into a single record lot, and is now known as Lot 29.

Steven Lerman, the University's Provost, and Alicia O'Neil Knight, the University's Senior Associate Vice President for Operations.

5. In addition to the University, ANC 2A was automatically a party in this proceeding. The Commission also granted a request for party status in opposition to the application from the West End Citizens Association ("WECA").
6. At the hearing, the Commission heard testimony and received evidence from the Office of Planning ("OP") and the District Department of Transportation ("DDOT") in support of the application, as well as testimony and evidence from ANC 2A and WECA expressing concerns with or objections to the application.
7. The Commission also heard testimony from numerous area residents, faculty, and students in support of the application. Other than ANC 2A and WECA, no other person or party testified in opposition to the application.
8. At the close of the hearing, the Commission asked the University for further information regarding the timing of the development site across 22nd Street (Square 77) and for further details on the features of the PUD that would address pedestrian safety issues.
9. The University filed its post-hearing submission addressing the Commission's comments on April 11, 2011. (Exhibit __.)
10. At its public meeting on April 25, 2011, the Commission took proposed action by a vote of ____ to approve the application and plans that were submitted into the record.
11. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the Home Rule Act. *NCPC, by action dated _____, found that the proposed PUD would not be not inconsistent with the Comprehensive Plan for the National Capital, nor would it adversely affect any other identified federal interests.*
12. The Commission took final action to approve the application on _____ by a vote of ____.

Campus Plan and First Stage PUD Approval

13. In Order No. 06-11/06-12, the Commission concurrently approved a new campus plan and first stage PUD for the Foggy Bottom Campus (the "Campus Plan / PUD"). The Campus Plan incorporated a plan for developing the campus as a whole by concentrating height and density within the central campus core and redistributing parking supply throughout the campus in multiple underground parking garages. The first stage PUD is coterminous with the approved boundaries for the Foggy Bottom Campus, and includes all properties that were owned by the University at the time of approval of the Campus Plan / PUD. The approved first stage PUD identified sixteen development sites for future development as well as the uses, height, gross floor area, and lot occupancy for each development site.

14. For the Property that is the subject of this application, the Campus Plan / PUD approved a building devoted to academic / administrative / medical use with a height of 110 feet, lot occupancy of 90%, and gross floor area of 400,244 square feet. The Campus Plan / PUD also called for approximately 350 new parking spaces on the Property in an underground facility.
15. The Campus Plan / PUD approved the rezoning of certain development sites in order to permit the University to achieve the height and density needed to achieve its forecasted academic and student housing needs.
16. For the Property that is the subject of this application, the Campus Plan / PUD approved a rezoning to the C-3-C Zone District
17. The historic preservation component of the Campus Plan / PUD called for a stepdown in height to 90 feet along 23rd Street. The historic preservation component did not call for the retention of either of the two existing structures on the Property, the University Parking Garage and an academic building known as Building K.
18. The Campus Plan / PUD called for the retention of the existing alley entrance that runs north-south from I Street NW.
19. In its Order approving the Campus Plan / PUD, the Commission recognized that the University would need to utilize, on an interim basis, off-campus parking resources to maintain compliance with the 2,800-space campus parking requirement. Order No. 06-11/06-12 at 7 (FOF 27).

Second Stage PUD Approval/Further Processing

Overview of the Property

20. The Property is an irregularly-shaped parcel that fronts the entire length of 22nd Street NW between H Street NW and I Street NW as well as portions of H Street NW, I Street NW, and 23rd Street NW. The Property is currently improved with the University Parking Garage, which contains parking for 1,252 vehicles (1,482 including valet capacity), and Building K, a small gymnasium that contains academic uses.
21. The University provided evidence and testimony from its expert architectural historian regarding Building K at the public hearing. As a part of the Campus Plan / PUD, the University and its preservation consultants undertook a comprehensive assessment of potential historic resources throughout the campus. Building K was evaluated and determined not to merit preservation because of substantial façade alterations to the building. The University's representatives also testified that, in response to a request from a neighbor, the University had agreed to acknowledge the history of the building as a church through a commemorative plaque on the site.

22. Also located in the same square are three brick buildings between 80-90 feet in height that are operated by the University as residence halls and which were recently designated as historic landmarks as a part of the University's campus historic preservation plan.
23. Surrounding uses include the GW Hospital and the Medical Center to the west and northwest, the University's Academic Center to the east, a residence hall and academic building to the south, and the mixed-use Square 54 PUD approved by the Commission in Order No. 06-27 to the north.
24. The Foggy Bottom-GWU Metrorail station is located immediately to the northwest of the Property.

The Project

25. The University sought approval to develop an eight-story building as a new Science and Engineering Complex for the University containing uses consistent with the Property's academic / administrative / medical designation under the approved Campus Plan (the "Project"). The Project also includes two stories of below-grade program space, four levels of underground parking containing approximately 328 parking spaces (379 with valet capacity), and approximately 3,000 square feet of retail space fronting I Street NW.
26. At the hearing, the University's representatives explained that the Project will permit consolidation of existing departments in its science and engineering programs within a single structure. The University explained that the co-location of these science and engineering disciplines under a single roof would foster a premier teaching and research environment to promote multidisciplinary and interdisciplinary interaction and improve the University's profile as a world-class educational institution.
27. Because the Project fronts on all four streets on the block, it will improve the pedestrian experience surrounding the entire square as well as promote campus connectivity through the SEC itself. The Project will feature multiple pedestrian entrances along 22nd Street as well as an entrance off 23rd Street, across from the Medical Center, and an entrance to the retail space on I Street.
28. At the hearing, the project architect provided a detailed description of the building design intent, façade design, materials selection, and surrounding context. The architect noted the proposed components of the building design including type and color of materials, ground-floor design and roof lines, and use of bay windows were all incorporated based on their compatibility with surrounding buildings in order to articulate the building's facades.
29. The Project will create a significantly improved site plan for vehicular and pedestrian traffic over existing conditions.
 - a. As a result of the removal of the University Parking Garage, the University will eliminate five of seven curb cuts surrounding the block. Underground parking will be accessed from H Street.

- b. The University will convert an existing surface parking lot between two of the residence halls in the block into a shared service and loading area for the SEC and residence halls. This loading area will be accessed from the existing curb cut on I Street.
 - c. The University will establish two pocket parks on privately-controlled GW property along the perimeter of the square, one located adjacent to the loading entrance on I Street, and the other located adjacent to the pedestrian entrance on 23rd Street.
 - d. Pursuant to its Streetscape Plan and related agency approvals, the University will improve the streetscape surrounding the entire square. These improvements will result in an enhanced pedestrian experience through wider sidewalks, improved paving materials, widened tree pits, and new landscaping and furnishings consistent with the Streetscape Plan. The University indicated that the north-south sidewalks would be paved with concrete, and the east-west sidewalks would be paved with brick pavers, consistent with the campuswide Streetscape Plan developed as a part of the implementation of the Campus Plan / PUD.
30. The proposed Project will minimize environmental impacts, particularly compared to existing conditions. Specific features cited by the University's representative include green and white roofs for the building, the use of enthalpy wheels and chilled beam systems to reduce the energy demand associated with heating and cooling the building, and adaptable furnishings within the building to maximize adaptability in use of interior spaces without significant renovation. The University testified that it is targeting a Silver rating under the US Green Building Council's LEED 2009 for New Construction rating system.
31. The Project will provide approximately 110 bicycle parking spaces, including both surface spaces and spaces within the parking garage as well as dedicated parking spaces in the garage for electric cars and carsharing services.
32. The total gross floor area for the Project is approximately 377,036 square feet for a total Floor Area Ratio ("FAR") of approximately 6.6 and a lot occupancy of approximately 90%. The building will reach a maximum height of approximately 110 feet.
33. The University requested flexibility from the width and areas requirements for courts in order to accommodate the proposed design of the building relative to the underlying lot; flexibility from the roof structure requirements in order to accommodate the design of the enclosure wall and lack of required setback along one portion of the structure facing an interior wall; and flexibility from the loading requirements in order to permit the berths to project over the underlying lot lines.

Project Amenities and Public Benefits

34. The project amenities and public benefits of the PUD were proffered and accepted in conjunction with the Campus Plan / PUD process.

- a. In the Campus Plan / PUD Order, the Commission recognized that the University had developed its first stage PUD, including the identification of project amenities and public benefits for the surrounding community, through a comprehensive community-based planning process that engaged a variety of stakeholders to elicit input and feedback. Order No. 06-11/06-12 at 18 (FOF 71). During that proceeding, many persons and organizations, including residents of the surrounding neighborhoods, testified in support of the proposed benefits and amenities. See *id.* at 24 (FOF 96).
 - b. In approving the Campus Plan / PUD, the Commission found that the proposed increases in height, density, and lot occupancy and related changes in zoning, were appropriate and concluded that the value of the project amenities and public benefits were acceptable in light of the degree of development incentives requested. Order No. 06-11/06-12 at 25 (COL 4). On appeal, the D.C. Court of Appeals sustained the Commission's decision, specifically holding that the record contained substantial evidence to support the Commission's decision regarding the sufficiency of the amenities package. *Foggy Bottom Ass'n v. D.C. Zoning Comm'n*, 979 A.2d 1160, 1172 (D.C. 2009).
35. The University indicated in its written submissions and at the public hearing that it had started to implement many of these public benefits and project amenities pursuant to the conditions of approval of the Campus Plan / PUD Order, including:
- a. Transitioning the use of off-campus properties to uses other than undergraduate housing;
 - b. Refraining from purchasing residentially-zoned properties in the Foggy Bottom/West End neighborhoods for university uses;
 - c. Designating six University properties as historic landmarks, including three located on Square 55 adjacent to the proposed Project, and submitting the materials required for the District's Historic Preservation Office to create the campus historic district;
 - d. Developing and submitting a final campus streetscape plan to DDOT;
 - e. Creating the campus plan Advisory Committee, with regular quarterly meetings since 2007.
36. As detailed in the University's testimony and written submissions, the proposed Project will implement the following project amenities and public benefits that were approved as part of the Campus Plan / PUD:
- a. Exemplary urban design, architecture, and landscaping, including high-quality materials, pedestrian-oriented landscape improvements, clear separation of pedestrian and vehicular entrances and circulation patterns, and sustainable features.

- b. Site planning and efficient land utilization, through the replacement of the existing structured parking garage with the transformative academic complex, which will further both the distribution of parking supply throughout the campus and the development of additional academic and administrative space at the core of the campus plan.
- c. Effective and safe vehicular and pedestrian access and transportation management measures. Specific features include:
 - i. Elimination of the UPG, which will reduce the number of overall trips to/from the square by approximately 75 percent, thereby reducing the number of trips at surrounding intersections;
 - ii. Elimination of five of seven curb cuts around the square in order to reduce potential vehicular-pedestrian conflicts;
 - iii. Consolidated loading for all uses within the square, within an interior open court that permits most trucks to turn around within the loading area and therefore enter and exit front-first;
 - iv. A combination of physical improvements and operational measures to regulate service and delivery activity in order to ensure pedestrian safety and reduce potential adverse impact.
 - v. Features that further the campuswide TDM, including 110 bicycle parking spaces, 3 dedicated spaces for carsharing vehicles, and 6 dedicated spaces for electric cars (equipped with charging stations).
- d. Environmental benefits, including green roof and white roof, specific building systems and design features that will reduce the overall energy demands associated with heating and cooling the building, and stormwater management features that will capture runoff and permit its reuse, as well as a goal of achieving a minimum of the equivalent of a Silver rating under the LEED-NC 2009 rating system (which exceeds the minimum commitment of 16 points under Condition P-13 of the Campus Plan / PUD).
- e. Uses of special value, including approximately 3,000 square feet of ground floor retail along I Street NW, as a part of the University's commitment to build out an "I Street Retail Corridor."
- f. Historic preservation, through the development of a Project that respects and complements adjacent historic landmarks through (1) design features such as the use of bay windows, stepdown in height along 23rd Street, and selection of appropriate materials and (2) specific improvements to the I Street service and loading area, including the use of special paving and creation of a pocket park at the street that integrates the historic wall and piers associated with the adjacent landmark.

37. During the hearing, OP confirmed that all of the benefits and amenities had already been negotiated and approved during the first stage PUD. To the extent that the University chose to exceed its stated commitments (such as with regard to sustainable design) or provide additional benefits not called for under the first stage PUD (such as the pocket parks provided through this Project), OP testified that it would accept such additional measures, even though they were not needed to justify the development incentives provided through the PUD process.

Evaluation of Transportation Issues

Traffic

38. The road network surrounding Square 55 consists of three two-way streets and one one-way northbound street. Two of the four street intersections are currently signalized; DDOT plans to install a signal at a third intersection in the near term as a result of payments made in connection with Z.C. Order No. 06-27.
39. The Project is located adjacent to several modes of transportation, including the nearby Foggy Bottom-GWU Metrorail station, Metrobus and D.C. Circulator lines, shuttle buses, bicycle facilities, a connected and developed urban network of pedestrian sidewalks and paths, and a connected network of arterial, collector, and local streets.
40. Representatives for the University provided evidence that they worked closely with representatives of OP and DDOT to evaluate potential vehicular entrances for the Project and, once these entrances were confirmed, determine what additional measures were needed to mitigate potential pedestrian-vehicular conflicts, particularly at the proposed loading and service entrance off I Street NW.
41. The University's expert traffic consultant provided a detailed report as well as testimony regarding the traffic impacts of the Project. The traffic expert found that the Project would generate 75% fewer peak hour trips than the current use. The traffic expert concluded that the Project would reduce the number of trips at almost all surrounding intersections and would not create any adverse impacts as compared to future background conditions without the proposed development. Based on the foregoing, the traffic consultant concluded that the Project would not impose adverse or objectionable impacts on traffic operations in the surrounding area.
42. The University's traffic consultant also concluded that the I Street loading and service entrance, with the physical and operational components of the truck management plan agreed to by the University, would accommodate the loading operations for the SEC and minimize the impact of its service and loading activity.
43. At the hearing, the University agreed to comply with DDOT's recommendations to (a) provide information in the lobby through electronic displays regarding transportation options and (b) provide transportation performance monitoring studies upon completion of the Project.

44. In written reports and verbal testimony, representatives from DDOT and OP confirmed that the Project would not impose adverse traffic impacts and that no additional mitigation measures were needed to address traffic impacts. OP and DDOT also confirmed that the proposed measures associated with the loading and service area would avoid objectionable or adverse impacts.

Parking and Interim Use of Off-Campus Parking Resources

45. The Applicant's traffic consultant found that the Project would reduce the number of parking spaces on the square by 945 spaces (1,123 spaces including valet) and that, as a result of the construction of replacement parking facilities and interim use of off-campus parking facilities, the University would maintain its required minimum of 2,800 parking spaces.
46. The Applicant's traffic consultant found that the Project would reduce the number of curb cuts from seven to two and correspondingly increase the number of curb parking spaces around the Project.
47. In its Order approving the Campus Plan / PUD, the Commission recognized that the University would need to utilize, on an interim basis, off-campus parking resources to maintain compliance with the 2,800-space campus parking requirement. Order No. 06-11/06-12 at 7 (FOF 27).
48. In its written submissions and oral testimony, the University testified that it would need to utilize such off-campus parking resources during an approximately one-year long period following the demolition of the UPG and prior to the completion of the parking facilities approved in Case No. 06-11A/06-12A. The University testified that it expected to lease approximately 350 parking spaces from the nearby Kennedy Center, which would maintain compliance with the required 2,800-space minimum. The University indicated that the lease would remain in effect during the construction of the SEC, though the number of spaces would be reduced after the parking facilities approved in Case No. 06-11A/06-12A are completed.
49. The University testified that access to the off-campus parking would be provided through an existing shuttle bus service as well as through supplemental service provided by the University. The University submitted a plan demonstrating that its shuttle service would avoid nearby residential areas, and this was acknowledged by the representative for the ANC.
50. In written and verbal testimony, representatives of OP and DDOT confirmed that the impact of the Project on parking – on-site, campuswide, and through the interim use of off-campus parking resources during the construction period – was not objectionable and would not impose adverse impacts and that the University would continue to provide the minimum required number of spaces.

Pedestrian Issues

51. The University provided written evidence and testimony that the proposed streetscape design and improvements would enhance the pedestrian experience around the entire perimeter of the square through the following features:
- g. Reduction in curb cuts from seven to two, which would reduce the number of potential pedestrian/vehicle conflicts.
 - h. New sidewalks surrounding the entire square which are wider than existing sidewalks; improved tree pits, planting zones, and other pedestrian amenities.
 - i. Use of pedestrian-friendly paving materials, including scored concrete on north-south streets, brick pavers on east-west streets, and cobblestones between the tree pits that are ADA-compliant. The University's representatives noted that, per the Streetscape Plan, the bricks would be laid on a concrete slab foundation and, when appropriate, use structural soil or silva cells to increase the volume of soil available for tree roots without causing the paving to heave.
52. In written and oral testimony, OP and DDOT supported the proposed streetscape improvements and asked the University to continue to work with DDOT and other public space officials to implement these improvements and address related pedestrian activity crossing public streets.
53. In its post-hearing submission, the University agreed to work with DDOT and other public space representatives to work on the design of the streetscape improvements and explore whether additional width was achievable. The University also identified features of the site plan and Streetscape Plan that would encourage pedestrian use of crosswalks near the site, and agreed to work with DDOT to identify whether supplemental efforts should be considered.
54. University representatives provided testimony that the Streetscape Plan called for the use of non-segmented benches in response to student preferences and consistent with the style of other benches on campus. In testimony, representatives from DDOT confirmed that the use of non-segmented benches had been deemed acceptable for the Foggy Bottom Campus.

Second Metrorail Entrance

55. The University testified that, concurrent with but independent of the Campus Plan / PUD proceedings, WMATA had determined that a planned second entrance to the Foggy Bottom-GWU Metrorail station would be located at the northwest corner of Square 77, at the intersection of 22nd and I Streets NW and across 22nd Street from the Project.
56. The University further explained that, during the campus plan proceedings and in response to that WMATA study, GW had agreed to accommodate a future second

Metrorail entrance in conjunction with its buildout of the development site located on Square 77.

57. In conjunction with this Project, OP asked the University to consider whether it could include removable panels within the Project that would permit a direct connection to the Metrorail entrance when that entrance is completed. The University's representatives testified that a connection would not be possible because secured areas with sensitive equipment such as the SEC's "clean rooms" (climate and particle-controlled environment for work on microchips and other sensitive materials) were located at the level where such a connection would occur. At the hearing, OP testified that it accepted the University's explanation that such connection was not feasible.
58. In a post-hearing submission, the University reiterated its commitment to accommodate the future Metrorail entrance on Square 77 through the design of its future improvements for that site. The University also explained that while the timing of its future development of Square 77 was unknown, the University's development of Sq. 77 has no impact on the construction of a second Metrorail station entrance or the timing of WMATA's implementation of its development plans.

Conclusions

59. The Project will not cause unacceptable impacts on vehicular or pedestrian traffic, as demonstrated by the testimony and reports provided by the University's traffic expert and the OP and DDOT reports and testimony described herein.
 - a. The Commission finds that the Project will not impose adverse or objectionable impacts on the surrounding transportation network. The Commission credits the findings of the University's traffic expert, who concluded that the Project will reduce the number of trips from the Property, resulting in reduced volumes most of the surrounding intersections. The Commission specifically agrees with the traffic expert's finding that the Project will not create any adverse impacts when compared with future background conditions. The Commission credits the testimony of DDOT that the project will not impose objectionable impacts due to traffic.
 - b. The Commission also finds that the proposed service and loading entrance, with the additional truck management measures proposed by the University, will ensure that the Project will not impose adverse or objectionable impacts because of truck traffic. The Commission also credits the testimony of DDOT that these measures are acceptable.
 - c. The Commission finds that the proposed Project will not impose adverse or objectionable impacts due to parking. The Commission credits the testimony of the University and its traffic consultant that, upon completion of this Project and the parking garage approved in Case No. 06-11A/06-12A, the University will provide a total of approximately 3,300 on-campus parking spaces, which exceeds the minimum requirement of 2,800 parking spaces. The Commission also credits

the testimony of the University and its traffic consultant that the interim use of off-campus parking resources at the Kennedy Center will not impose objectionable impacts on the surrounding neighborhoods due to parking, because the University will continue to provide the minimum of 2,800 parking spaces and promote access to the off-campus parking supply through supplemental shuttle service.

- d. The Commission finds that the Project will not impose adverse or objectionable impacts on the surrounding pedestrian network, and in fact will improve existing conditions. The Commission recognizes that DDOT will determine the final measures to be installed through the public space approval process.
- e. The Commission does not agree with assertions by ANC 2A or WECA that the Project will impose adverse impacts on traffic or parking. As demonstrated by the University's traffic consultant, the Project will not impose adverse impacts on surrounding intersections when compared to future background conditions without the Project, which is the proper point of comparison for analyzing the impact of this Project. Furthermore, the Commission does not credit the ANC's assertion that the University has increased, rather than decreased, the parking supply of the campus. Many of the spaces alleged by the ANC to be a part of this increase are not part of the University's supply, but rather are associated with the office, retail, and residential components of the mixed-use PUD approved in Order No. 06-27.
- f. The Commission does not agree with assertions by ANC 2A or WECA that the Project will impose adverse impacts on the pedestrian network. As demonstrated by the University, the Project's related streetscape improvements will result in an improvement over existing conditions such as sidewalk widths and include the use of paving materials and methods that will not adversely impact pedestrian mobility.
- g. The Commission does not agree with the assertions by ANC 2A that the University should be required to fund or substantially contribute to the construction of a second Metrorail entrance, either through the Project or through future development. As discussed in greater detail below, the University has already provided ample benefits and amenities through the Campus Plan / PUD, and no additional benefits are warranted because of the impact of this Project. Furthermore, the Commission credits the testimony of the University that a direct connection to the Project is not feasible given the Project design, and notes that OP accepted the University's rationale. Finally, the Commission recognizes that the timing and buildout of the Campus Plan / PUD will not impact the ability of WMATA to construct the second entrance, particularly given the University's agreement to accommodate the entrance.

Compliance with Requirements of Order No. 06-11/06-12

60. Pursuant to Condition P-14 of Order No. 06-11/06-12, the University demonstrated that the proposed second stage PUD is consistent with the location, use, zoning, gross floor area, lot occupancy, and height set forth in the first stage PUD.
61. Pursuant to Condition P-16 of the Order, the University provided the compliance, impact analysis, and progress reports required for each second stage PUD in its initial PUD application.
62. Pursuant to Condition P-17 of the Order, the University provided its most recently filed Foggy Bottom Campus Plan Compliance Report indicating substantial compliance with Order No. 06-11/06-12.
63. The Commission finds that the University has satisfied the above conditions and requirements of Order No. 06-11/06-12.

Compliance with Section 210 Standards

64. In evaluating a special exception to permit a college or university use in a residential zone district, the Commission must review whether the application meets the standards for approval under Section 210 of the Zoning Regulations, including whether the “proposed use will be located so that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable impacts.” During its consideration of the campus plan in Case No. 06-11/06-12, the Commission determined that the use of the Foggy Bottom Campus as a whole, including the number of students, faculty and staff proposed and the related traffic and parking impacts associated with that use, would not become objectionable to neighboring property. Here, the Commission finds that the University has satisfied its burden of proof under the Zoning Regulations for further processing of the approved campus plan to construct the Project.
65. For the reasons detailed in this Order, the Commission credits the testimony of the University’s traffic consultant and finds that the traffic, parking, and other transportation impacts of the Project are not likely to become objectionable to neighboring property.
 - a. During the campus plan proceedings in Case No. 06-11/06-12, the Commission concluded that the distribution of parking to underground garages—including one garage located on the Property—would not generate objectionable transportation impacts. The Commission also concluded that the future levels of service at intersections throughout the campus and in the immediate vicinity would remain at primarily acceptable levels of service with the implementation of mitigation measures proposed by the University.
 - b. As detailed in the Order approving the Campus Plan / PUD, the Commission found there was substantial evidence in the record regarding traffic impacts, and

therefore does not find it necessary to address WECA's contention whether certain questions raised in that proceeding were specifically addressed by DDOT.

- c. Here, the Commission credits the findings of the University's traffic consultant that the proposed Project will not have an adverse impact on traffic operations at surrounding street intersections and will in fact reduce traffic impacts through the reduction in the number of trips originating from the Property.
66. The Commission agrees with DDOT's conclusions regarding vehicular and pedestrian impacts and related issues with the proposed development. The Commission credits DDOT's evaluation of the University's traffic study and related transportation demand and truck management measures. The Commission also credits DDOT's acceptance of the pedestrian and related streetscape measures proffered by the University subject to final approval by DDOT.
67. The Commission credits the evidence submitted by the University that total campus FAR would remain well within the density limit approved for the residentially-zoned portions of the campus even after the construction of the Project.
68. The Commission credits the evidence provided by the University and OP that the Project would not be inconsistent with the District of Columbia Comprehensive Plan, and will further the goals and policies of the Comprehensive Plan.

Compliance with PUD Standards

69. In evaluating a PUD application, the Commission must "judge, balance, and reconcile the relative value of project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects." During its consideration of the first stage PUD in Case No. 06-11/06-12, the Commission determined that the development incentives and related rezoning for the entire campus were appropriate and fully justified by the superior benefits and amenities offered by the Campus Plan / PUD and this decision was affirmed by the District of Columbia Court of Appeals. Here, the Commission finds that the University has satisfied its burden of proof under the Zoning Regulations for this second stage PUD, including the requested flexibility from the court, roof structure, and loading requirements and satisfaction of the PUD standards. The Commission does not find that contributions towards a second Metrorail entrance or other additional amenities and benefits are required to satisfy the PUD standards for this Project.
70. The Commission credits the testimony of the University and its architectural experts and finds that the superior design, site planning, streetscape, sustainable design, uses of special value (retail space), and historic preservation features of the Project all constitute acceptable project amenities and public benefits consistent with the Commission's first stage approval.
71. The Commission finds that the character, scale, mix of uses and design of the Project are appropriate, and finds that the site plan is consistent with the intent and purposes of the

PUD process to encourage high quality developments that provide public benefits. In addition, the Commission finds that the site plan and features of the Project, including the amount of net new parking proposed, reduction in the number of curb cuts, streetscape improvements, and retention of the I Street curb cut is consistent with the first stage PUD.

72. For the reasons detailed in this Order, the Commission credits the testimony of the University's traffic consultant and finds that the traffic, parking, and other transportation impacts of the Project on the surrounding area are capable of being mitigated through the measures proposed by the University and are acceptable given the quality of the public benefits of the PUD. The Commission credits the findings of the University's traffic consultant that the proposed service and loading plan, with the physical improvements and operational features proffered by the University are acceptable and will mitigate potential pedestrian-vehicular conflicts. The Commission was not persuaded by ANC 2A or WECA's testimony regarding the transportation impacts of the Project.
73. As detailed in this Order, the Commission agrees with DDOT's conclusions regarding vehicular and pedestrian impacts and related issues with the proposed development.
74. The Commission credits the testimony of the University and OP regarding the compliance of the Project with the District of Columbia Comprehensive Plan. The development is fully consistent with and furthers the goals and policies in the map, citywide and area elements of the Plan, including:
 - a. Designation as an Institutional use on the Future Land Use Map;
 - b. Land Use Element policies recognizing the important contribution of universities to the District economy and their efforts to address transportation issues and serve as corporate role models through high quality architecture and sustainable building methods;
 - c. Other policies in the Economic Development, Education, Transportation, Environmental Protection, and Urban Design Elements related to the Land Use policies and goals stated above;
 - d. Policies in the Near Northwest Area Element regarding improved communication, increased density on-campus, and mitigation measures and amenities that improve the character of the area as a whole.

Agency Reports

75. By report dated March 14, 2011 and by testimony at the public hearing, OP recommended approval of the application, including the second stage PUD and further processing of the campus plan. OP reviewed the application under the PUD and campus plan standards of the Zoning Regulations as well as the specific conditions of the Campus Plan / PUD Order, and concluded that the University had satisfied its burden of proof.

76. By report dated March 17, 2011, DDOT recommended approval of the University's application based on its review of the vehicular, pedestrian, and other transportation impacts of the Project. DDOT's specific conclusions and recommendations are discussed elsewhere in this order.

ANC 2A Report

77. At a regularly scheduled meeting on February 16, 2011, with a quorum present, ANC approved a resolution raising an objection to the application and listing the following issues for the Commission to request from the University:

- a. Define a plan for the addition of a second Metro entrance and expedite such entrance through capital funding as a public benefit of the PUD, based on the ANC's assertion that the current amenity package was deficient;
- b. Address pedestrian mobility and safety, including through the width of the proposed sidewalks;
- c. Signalize the intersection of 22nd and I Streets NW;
- d. Provide details on the proposed Kennedy Center parking and related University shuttle service;
- e. Address the alleged historic value of Building K;
- f. Identify where existing uses in Building K would be relocated;
- g. Prepare a construction management plan;
- h. Address how the University plans to manage to its enrollment caps.

78. The University addressed these issues in its supplemental post-hearing submission. They are summarized as follows:

- a. As discussed in Findings of Fact 55-58 above, the University has agreed to accommodate the future entrance with the design of future development in Square 77, which is WMATA's preferred location for such entrance. As discussed in Finding of Fact 69 above, the Commission does not agree that the current amenities package is insufficient or that additional amenities are required to justify the development incentives granted for this Project.
- b. As discussed in Finding of Fact 51, the Project will significantly improve pedestrian facilities over existing conditions, and as discussed in Finding of Fact 53, the University will continue to work with DDOT and other public space officials to further address whether additional improvements are warranted.

- c. The cost of signalization of the intersection of 22nd and I Streets NW was already provided through the Commission’s approval of Order No. 06-27. At the hearing, DDOT testified that the signal would likely be installed within the year.
 - d. As discussed in Findings of Fact 48-49 above, the University provided additional details regarding the interim use of off-campus parking resources and related shuttle service. At the hearing, the ANC indicated that the proposed shuttle route was acceptable.
 - e. As discussed in Finding of Fact 21 above, Building K was determined to not warrant preservation because of significant alterations to its façade, but the University would provide a commemorative plaque recognizing its past use as a church. At the hearing, the ANC indicated that this plaque was acceptable.
 - f. The uses within Building K will be temporarily relocated to existing GW space either on campus or within leased space in the Golden Triangle/K Street corridor; upon approval and completion of the proposed School of Public Health and Health Services pending before the Commission in Case No. 06-11C/06-12C, the uses would be given a new home within that building.
 - g. The University agreed to prepare and share details on its construction management plan once the details were approved by DDOT.
 - h. The University stated that it continues to remain in full compliance with the caps on student and faculty/staff population and further explained that while the Project would lead to an increase in building density, the University would continue to serve a relatively stable campus population. The purpose of the Project, as explained by the University Provost at the hearing, was to provide improved teaching and research resources for existing students.
79. At the hearing, the ANC raised additional questions regarding the potential impact of the SEC on air quality. The University indicated that air quality and other environmental impacts would be addressed through the environmental review process associated with the consideration of the building permit for the Project, and would meet all EPA and DDOE standards.
80. The Commission gives “great weight” to the issues and concerns raised by ANC 2A, which raised objections to the application. The Commission finds that the concerns presented by the ANC were largely addressed by the University both in its pre-hearing submission and in testimony at the public hearing, and the University’s conclusions were supported by testimony from OP and DDOT.

Testimony in Support

81. At the hearing, the Commission received evidence and heard testimony from many students and neighbors in support of the Application.

Testimony in Opposition

82. WECA presented testimony and evidence from Barbara Kahlow and Sara Maddux. WECA generally objected to the transportation impacts of the proposed Project related to impacts on traffic conditions and related streetscape improvements.
83. For the reasons discussed in detail above, the Commission does not agree with WECA's assertions regarding the impacts of the Project, and finds that both the University and DDOT provided thorough evaluations of the traffic impacts and streetscape features.
84. No other persons or organizations provided testimony in opposition to the application.

CONCLUSIONS OF LAW

1. The Applicant requested special exception approval, pursuant to 11 DCMR §§210, 3305, and 3104, of further processing of its approved campus plan, and approval, pursuant to 11 DCMR Chapter 24, of a second stage planned unit development and modification to a first stage planned unit development for its Foggy Bottom Campus. The Commission is authorized under the aforementioned provisions to grant a special exception which, in the judgment of the Commission, 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. A special exception to allow use as a college or university in a Residence zone may be granted subject to the provisions contained in §210, including that the university use must 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" and that the maximum bulk requirements may be increased for specific buildings, subject to restrictions based on the total bulk of all buildings and structures on the campus. The Commission is also authorized under the Zoning Act to approve planned unit developments consistent with the requirements set forth in Chapter 24 of the Zoning Regulations.
2. Based on the above Findings of Fact and pursuant to Condition P-15 of Order No. 06-11/06-12, the Commission concludes that the University has satisfied the burden of proof for special exception approval of further processing of its campus plan in accordance with § 210. In particular, the Commission concludes that the proposed project will not create objectionable traffic, parking, pedestrian, or other impacts on the surrounding community.
3. Also based on the above Findings of Fact, the Commission concludes that the University has satisfied the burden of proof for approval of the second stage PUD under Chapter 24 of the Zoning Regulations. Approval of this Project will provide high-quality development that provides public benefits, is consistent with the overall goal of the PUD process to permit flexibility of development and other incentives provided that the PUD

project “offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience.”

4. The proposed PUD meets the minimum area requirements of 11 DCMR § 2401.1.
5. Under the PUD process and pursuant to Condition P-14 of Order No. 06-11/06-12, the Commission has the authority to consider this application as a second stage PUD. This second stage review permits detailed design review of each project based on the conceptual height, density and use parameters established in the first stage PUD and the benefits and amenities approved in exchange for that height, density, and design flexibility. The Commission concludes that the Project is consistent with the first stage PUD, including the parameters regarding location, use, height, bulk, and parking set forth for the Property in the first stage PUD.
6. In approving the PUD, the Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards. In this application, the Commission concludes that the requested flexibility from the court, roof structure, and loading requirements can be granted without detriment to surrounding properties and without detriment to the zone plan or map.
7. Based on the documentation included in the initial PUD application, the Commission concludes that the University has demonstrated compliance with the conditions of the first stage PUD as detailed in Condition P-16 of Order No. 06-11/06-12.
8. Based on the University’s most recently filed Foggy Bottom Campus Plan Compliance Report, which was included in the initial application package, the Commission concludes that the University is in substantial compliance with Order No. 06-11/06-12.
9. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter of right standards. The character, scale, mix of uses, and design of uses in the proposed PUD are appropriate, and the proposed development is compatible with the citywide and area plans of the District of Columbia.
10. The Commission concludes that this project provides superior features that benefit the surrounding neighborhood to a significantly greater extent than a matter-of-right development on the Property would provide. The Commission finds that the urban design, site planning, efficient and safe traffic circulation, sustainable features, and streetscape improvements all are significant public benefits.
11. The Commission concludes that the impact of the project is acceptable given the quality of the public benefits of the project. The Commission agrees with the conclusions of the University’s traffic expert that the proposed project will not create adverse traffic, parking, or pedestrian impacts on the surrounding community.

12. Approval of the PUD and further processing application is not inconsistent with the Comprehensive Plan. The Commission agrees with the determination of OP and finds that the proposed project is consistent with and furthers numerous goals and policies of the Comprehensive Plan, including the Land Use Element provisions related to educational institutions, transportation impacts, and corporate leadership in exemplary design, as well as related provisions in other citywide elements and policies in the Near Northwest Area Element related to managing the impacts of campus development.
13. The Commission has judged, balanced, and reconciled the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects, and concludes approval is warranted.
14. The Commission previously concluded in Order No. 06-11/06-12 that the proposed PUD-related Zoning Map Amendment for the Property from the R-5-D to the C-3-C Zone District was not inconsistent with the Comprehensive Plan and is appropriate given the superior features of the PUD, the goals and policies of the Comprehensive Plan, and other District of Columbia policies and objectives.
15. The Commission is required under D.C. Official Code § 6-623.04 to give great weight to OP recommendations. The Commission concurs with OP's view that the first stage PUD modification, second stage approval and further processing approval should be granted.
16. In accordance with D.C. Official Code § 1-309.10(d), the Commission must give great weight to the written issues and concerns of the affected ANC. The Commission accorded the issues and concerns raised by ANC 2A the "great weight" to which they are entitled, and in so doing fully credited the unique vantage point that ANC 2A holds with respect to the impact of the proposed application on the ANC's constituents. The Commission concludes that the concerns raised by the ANC were addressed by the University and agencies at the public hearing.
17. Notice of the public hearing was provided in accordance with the Zoning Regulations.
18. The University is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission of the District of Columbia orders APPROVAL of the applications for (1) second stage PUD approval for property consisting of Square 55, Lots 28, and 857 ("Property")²; and (2) further processing approval of the 2007 Foggy Bottom Campus Plan. This approval is subject to the following guidelines, conditions, and standards:

² Concurrently with the Zoning Commission review process, the Property was subdivided into a single record lot, Lot 29.

1. This project shall be developed in accordance with the plans marked as Tab A of Exhibit 22 of the record, as modified by guidelines, conditions, and standards herein.
2. The University shall have flexibility from the court, roof structure, and loading provisions of the Zoning Regulations as shown on the approved plans.
3. The project shall be used for university academic / administrative / medical, retail, and parking uses.
4. The project shall provide parking as shown on the approved plans, provided:
 - a. The University shall be permitted to make alterations to the design of the underground parking garage, provided that the garage contains approximately 328 striped parking spaces (approximately 379 spaces with valet capacity), which requirement may be satisfied with any combination of compact and full-sized spaces.
 - b. The University shall set aside a minimum of three spaces for carsharing vehicles
 - c. The University shall set aside a minimum of six spaces and related charging stations in the garage for electric vehicles.
5. The project shall provide loading consistent with the approved plans. Consistent with the flexibility approved by the Commission, such loading may be utilized to serve all properties within the square. The University shall abide by the Truck Management Plan detailed on page 28 of Exhibit 4, Tab H of the Record.
6. The University shall complete a transportation performance monitoring study of the Project at two years and five years after issuance of the certificate of occupancy for the Project, and shall provide a report summarizing its findings to OP, DDOT, ANC 2A, the West End Citizens Association, the Foggy Bottom Association, and the Advisory Committee. The study shall cover the items listed on page 4 of Exhibit 25 of the Record.
7. The University shall provide a minimum of approximately 110 bicycle parking spaces in connection with the Project, as shown on the approved plans.
8. Prior to the issuance of a certificate of occupancy for the Project, the University shall demonstrate that it has:
 - a. Constructed the streetscape improvements as shown on the approved plans;
 - b. Constructed the pocket park adjacent to the I Street loading entrance as shown on the approved plans;
 - c. Constructed the paving, marking, and signage improvements associated with the I Street loading entrance as shown on the approved plans;

- d. Constructed the pocket park adjacent to the 23rd Street pedestrian entrance as shown on the approved plans and has relocated the existing John A. Wilson plaque to this location; and
- e. Installed the commemorative plaque regarding Building K's prior use by the Liberty Baptist Church.

The final design of any improvements in public space shall be subject to final approval from DDOT and the University shall have flexibility to modify such improvements in response to DDOT direction. The final design of any improvements located on adjacent property in the square that has been designated as part of a historic landmark shall be subject to any required review and approval by historic preservation officials and may be modified in response to their direction.

- 9. The University shall have flexibility with the design of the PUD in the following areas:
 - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration or appearance of the structure;
 - b. To vary final selection of the exterior materials within the color ranges and materials types as proposed based on availability at the time of construction;
 - c. To make minor refinements to exterior details and dimensions, including balcony enclosures, belts, courses, sills, bases, cornices, railings, and trim, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit, or are needed to address the structural, mechanical, or operational needs of the building uses or systems;
 - d. To vary the size, location and design features of retail entrances, including the size, location, and design of windows, doors, awnings, canopies, and similar features, to accommodate the needs of specific retail tenants and storefront design; and
 - e. To vary the size, location, and other features of proposed building signage related to the university use or the retail use, provided that such signage is consistent with the locations and dimensions illustrated on pages A40 –A44 of the approved plans or is otherwise permitted under the applicable provisions of the Building Code.
- 10. No building permit shall be issued for this project until the University has recorded a covenant among the land records of the District of Columbia between the owners and the District of Columbia that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs. Such covenant shall bind the University and all successors in title to construct on or use the Property in accordance with this Order and any amendment thereof by the Zoning Commission.

11. The application approved by this Commission shall be valid for a period of two (2) years from the effective date of this Order. Within such time, an application must be filed for the building permit as specified in 11 DCMR § 2409.1.
12. The University is required to comply fully with the provisions of the Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01, et seq. (“Act”) and this Order is conditioned upon full compliance with those provisions. In accordance with the Act, the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant to comply shall furnish grounds for the denial, or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.