

February 4, 2013

VIA ELECTRONIC FILING AND HAND DELIVERY

Anthony Hood, Chairperson
D.C. Zoning Commission
Office of Zoning
441 4th Street, N.W., Suite 210
Washington, DC 20001

Re: Z.C. Case No. 06-11G/06-12G
The George Washington University (“University”) – Site 75A
Final Conditions of Approval

Dear Chairman Hood and Members of the Commission:

In response to comments received from the Office of the Attorney General, the University has revised and updated its final conditions of approval. The final conditions of approval for each proffered benefit are provided below. New language added or modified in response to OAG’s comments is underlined.

Please note the following regarding Condition 9(b) regarding the selection of an alternative school for the fellowship position. Condition 9(b) reads:

In the event that the Francis-Stevens Education Campus is no longer in operation, the University shall work with ANC 2A to select another D.C. public school that serves ANC 2A for the fellowship position or instructional/counseling position.

The underlined language was incorporated at the request of ANC 2A. Given the lack of public schools within the boundaries of the ANC (indeed, Francis-Stevens, the public school that serves preschool through eighth grade students that reside within ANC 2A, is located immediately outside of the ANC’s boundaries), the ANC felt it was important to provide flexibility for the benefit to be used for a school that serves ANC 2A’s population, even if the school itself is not necessarily located within the boundaries of ANC 2A. The condition complies with Section 2403.13 of the Zoning Regulations, because the public benefit (the educational position) accrues directly to the residents of ANC 2A.

We look forward to the Zoning Commission taking Final Action on this case.

Proffered Amenity	Proposed Condition ¹
<p><u>Finding of Fact No. 39(a)</u> 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.</p>	<p>1. This project shall be developed in accordance with the plans marked as Tab D of Exhibit 50 of the record, as modified by guidelines, conditions, and standards herein.</p>
<p><u>Finding of Fact No. 39(b)</u> Site planning and efficient land utilization, through the redevelopment of a strategic underutilized site located along Pennsylvania Avenue within two blocks of a Metrorail station.</p>	<p>1. This project shall be developed in accordance with the plans marked as Tab D of Exhibit 50 of the record, as modified by guidelines, conditions, and standards herein.</p>
<p><u>Finding of Fact No. 39 (c)(i)</u> Effective and safe vehicular and pedestrian access and transportation management measures. Specific features include: Replacement of the existing uncoordinated loading and service activities associated with the retail and other tenants on the Property with one centralized loading and service area for the Project;</p>	<p>1. This project shall be developed in accordance with the plans marked as Tab D of Exhibit 50 of the record, as modified by guidelines, conditions, and standards herein.</p> <p>5. The project shall provide loading consistent with the approved plans. The University shall abide by the Loading Management Plan detailed on Exhibit 34, Tab C of the Record.</p>
<p><u>Finding of Fact No. 39(c)(ii)</u> Widening of the public alley and improved vehicular turning movement within the square;</p>	<p>1. This project shall be developed in accordance with the plans marked as Tab D of Exhibit 50 of the record, as modified by guidelines, conditions, and standards herein.</p>
<p><u>Finding of Fact No. 39(c)(iii)</u> A loading management plan that includes a dock manager and peak hour delivery restrictions, which will regulate service and delivery activity and reduce potential vehicular conflicts and other adverse impact.</p>	<p>5. The project shall provide loading consistent with the approved plans. The University shall abide by the Loading Management Plan detailed on Exhibit 34, Tab C of the Record.</p>

¹ Numbers correspond with numbering in initial proposed order filed December 31, 2012.

<p><u>Finding of Fact No. 39(c)(iv)</u> Transportation demand management features, such as bicycle parking spaces.</p>	<p>1. This project shall be developed in accordance with the plans marked as Tab D of Exhibit 50 of the record, as modified by guidelines, conditions, and standards herein.</p> <p>4. The project shall provide parking as shown on the approved plans, <u>except</u> that the University shall be permitted to make alterations to the size and design of the underground parking garage, provided that the garage contains approximately 154 striped parking spaces, which requirement may be satisfied with any combination of handicapped, full-sized, compact, valet and tandem spaces. <u>The Project shall provide a minimum of 52 bicycle spaces in connection with the Project, as shown on the approved plans.</u></p>
<p><u>Finding of Fact No. 39(c)(v)</u> A detailed post-occupancy monitoring study.</p>	<p>7. The University shall abide by the transportation performance monitoring study set forth in Exhibit 57, Tab A of the Record.</p>
<p><u>Finding of Fact No. 39(d)</u> Environmental benefits, including green roof and white roof, specific building systems and design features that will reduce the overall energy demands and water usage, as well as a goal of achieving a minimum of the equivalent of a Gold rating under the LEED-CS 2009 rating system and a design intended to capture 1.2" of rainfall (exceeding current DDOE standards).</p>	<p>1. This project shall be developed in accordance with the plans marked as Tab D of Exhibit 50 of the record, as modified by guidelines, conditions, and standards herein.</p> <p>6. <u>The University shall submit with its building permit application a LEED checklist indicating that the Project includes sustainable design features such that the Project would be able to meet the standards for certification at a minimum Gold rating on the LEED-CS 3.0 2009 rating system, although the University is not required to seek such LEED Gold certification for the Project. The University shall also submit evidence that the Project has been designed to capture a minimum of 1.2" of rainfall.</u></p>

Finding of Fact No. 39(e)(i)

Uses of special value, including:

Approximately 7,209 square feet of affordable housing along F Street;

11. Prior to the issuance of a certificate of occupancy for the Project, the University shall enter into an ADU covenant similar in form to the ADU covenant attached as Exhibit 56, Tab A of the Record that shall govern the administration of the affordable housing; provided:

- a. Prior to the issuance of a certificate of occupancy for the Project, the University shall convert the properties identified in Exhibit 50, Tab A of the Record (the "Affordability Requirements") as 2142, 2146, and 2148 F Street NW to seven units containing approximately 7,209 square feet of affordable housing set aside for households earning up to 80% of the Area Median Income for the Washington, D.C. Metropolitan Statistical Area and adjusted for family size;
- b. The term of the affordable housing program shall be for a period of thirty (30) years;
- c. The maximum rent for each affordable housing unit shall be calculated as set forth in the Affordability Requirements;
- d. Maximum annual household income upon recertification shall be determined as set forth in the Affordability Requirements; and
- e. The administrative provisions of the ADU covenant may be modified if accepted by both the University and DHCD.

<p><u>Finding of Fact No. 39(e)(ii)</u> Approximately 6,637 square feet of ground floor retail fronting Pennsylvania Avenue;</p>	<p>3. The project shall be used for any use permitted in the C-4 Zone District provided that at least 6,637 square feet of gross floor area on the ground floor fronting Pennsylvania Avenue is set aside for retail and service uses.</p>
<p><u>Finding of Fact No. 39(e)(iii)</u> Contribution of \$50,000-55,000 in landscaping and buffering improvements for the benefit of the President Condominium;</p>	<p>12. Prior to the issuance of a certificate of occupancy for the Project, the University shall demonstrate that it has:</p> <p>...</p> <p>a. <u>Constructed the landscaping and buffering improvements as shown on the approved plans;</u></p> <p>...</p> <p>The final design of any such improvements shall be subject to, <u>as applicable, the terms of the University's agreement with the President Condominium dated November 15, 2012 and approval by the appropriate District permitting authorities, and the University shall have flexibility to modify such improvements per the agreement or in response to DDOT's direction.</u></p>
<p><u>Finding of Fact No. 39(e)(iv)</u> Contribution of \$100,000 to rent for office space for the Foggy Bottom/West End Village;</p>	<p>8. The University will contribute up to \$100,000 for office space for the Foggy Bottom West End Village ("Village"). The Village will select and enter into a lease agreement with a to-be-identified landlord, and the Village may extend the term of the initial lease agreement and/or enter into a one or more replacement lease agreements for the same or new office space with the same or a new landlord. All such lease agreements shall be on terms and conditions satisfactory to the Village in its sole discretion. The University will make its contribution of rent directly to each such landlord. Rent is defined as all monies set out in each such lease agreement including but not limited to minimum rent,</p>

	<p>common area maintenance, real estate taxes, utilities, cost of cleaning services, and security as more specifically defined in each such lease agreement</p> <p>a. The University will commence payment of rent upon (a) the effective date of this Order and the expiration of any appeal period or, if an appeal is filed, completion of the appeal and related remand, and (b) the execution of the lease by the Village. The University will terminate the payment of rent upon (a) the exhaustion of the \$100,000 allowance, or (b) the termination of the final lease, whichever comes first. Compliance with this condition of approval shall be demonstrated prior to the issuance of the certificate of occupancy for the Project. If, prior to January 1, 2015, the Village has not yet entered into the lease, the University shall be permitted to return to the Zoning Commission to identify a substitute public benefit.</p> <p>b. If requested in writing by the Village, the Village may allocate up to \$15,000 of the above \$100,000 contribution to expenses incurred by the Village in outfitting the office space and the University shall reimburse the Village for such reasonably documented expenses. Such expenses may include costs associated with adding computer lines, cable upgrades, or other improvements that would be considered an additional cost for the initial set up of office space for use by the Village. The University will approve and reimburse the Village for such reimbursable expenses within thirty days after the <u>date</u> they are submitted. Any amount reimbursed pursuant to this section shall be deducted from the</p>
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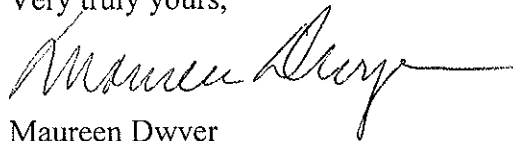
	<p>University's \$100,000 rent contribution.</p>
<p><u>Finding of Fact No. 39(e)(v)</u> Contribution of \$100,000 to the development and installation of a real-time transportation information board;</p>	<p>12. Prior to the issuance of a certificate of occupancy for the Project, the University shall demonstrate that it has:</p> <p>...</p> <p>c. Contributed up to \$100,000 to develop and install a real-time transportation information board. <u>The board shall be provided by the University and located in a publicly-visible location on University property within the Foggy Bottom/West End neighborhood. The board shall include information on transportation options such as real-time information on Metrorail, Metrobus and the D.C. Circulator as provided by WMATA.</u></p> <p>...</p> <p>The final design of any such improvements shall be subject to, <u>as applicable, the terms of the University's agreement with the President Condominium dated November 15, 2012 and approval by the appropriate District permitting authorities, and the University shall have flexibility to modify such improvements per the agreement or in response to DDOT's direction.</u></p>
<p><u>Finding of Fact No. 39(e)(vi)</u> Contribution of \$50,000 to fund a fellowship position at the Francis-Stevens Education Campus;</p>	<p>9. The University shall contribute \$50,000 to fund a fellowship position at the Francis-Stevens Education Campus. The University shall work with the Francis-Stevens Parent Teacher Association to determine the specific educational role of the fellowship position based on the needs of the Francis-Stevens Education Campus, and the University shall fill the fellowship position with one or more students in the University's Columbian College or Graduate School of Education and Human Development. The fellowship position shall commence at the beginning of the next academic year following (a) the effective date</p>

	<p>of this Order and the expiration of any appeal period or, if an appeal is filed, completion of the appeal and related remand, and (b) the identification of the specific educational role of the fellowship position. The University shall terminate the fellowship position upon exhaustion of the \$50,000 contribution. Compliance with this condition shall be demonstrated prior to the issuance of a certificate of occupancy for the Project.</p> <ul style="list-style-type: none"> a. In the event that the University is unable to establish the fellowship position, the University shall contribute \$50,000 to the Francis-Stevens Parent Teacher Association to fund the establishment of an instructional or counseling position to be determined by the Francis-Stevens Parent Teacher Association that will support educational programs at Francis-Stevens Education Campus. b. In the event that the Francis-Stevens Education Campus is no longer in operation, the University shall work with ANC 2A to select another D.C. public school <u>that serves</u> ANC 2A for the fellowship position or instructional/counseling position.
<p><u>Finding of Fact No. 39(e)(vii)</u> Contribution of \$1,000 to the Francis-Stevens Parent-Teacher Association to support the PTA's marketing efforts to promote enrollment; and</p>	<p>10. Within thirty (30) days after the effective date of this Order and the expiration of any appeal period or, if an appeal is filed, completion of the appeal and related remand, the University shall contribute \$1,000 to the Francis-Stevens Parent Teacher Association to support marketing efforts for the Francis-Stevens Education Campus, such as advertisements in local media and printed materials for distribution. <u>Compliance with this condition shall be demonstrated prior to the issuance of a certificate of occupancy for the Project.</u></p>

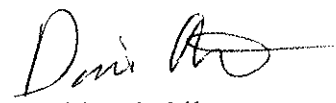
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<p><u>Finding of Fact No. 39(e)(viii)</u> Additional tax revenue for the District of Columbia.</p>	<p>1. This project shall be developed in accordance with the plans marked as Tab D of Exhibit 50 of the record, as modified by guidelines, conditions, and standards herein.</p> <p>3. The project shall be used for any use permitted in the C-4 Zone District provided that at least 6,637 square feet of gross floor area on the ground floor is set aside for retail and service uses.</p>
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Very truly yours,



Maureen Dwyer



David Avitabile

DA/da
Enclosure

cc: Charles Barber
Alicia Knight

CERTIFICATE OF SERVICE

On February 4, 2013, I caused a copy of the foregoing letter and enclosure to be delivered by hand or by electronic mail to the following:

Paul Goldstein
D.C. Office of Planning
1100 4th Street, SW, Suite E650
Washington, DC 20024

Jamie Henson
Policy and Planning
District Department of Transportation
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Washington, DC 20009

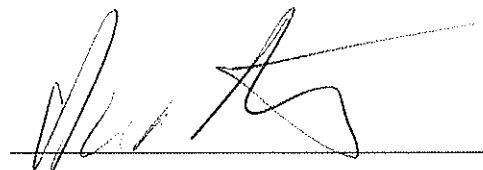
Advisory Neighborhood Commission 2A
West End Branch Library
1101 24th Street, NW
Washington, DC 20037

President, Foggy Bottom Association
c/o Samira Kristina Azzam
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West End Citizens Association
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A handwritten signature in black ink, appearing to read 'David Avitabile', is written over a horizontal line.

David Avitabile