

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 20-31

Z.C. Case No. 20-31

The American University

**(2021 Campus Plan @ 4400 Massachusetts Avenue, N.W., 4300 Nebraska Avenue, N.W.,
3201 New Mexico Avenue, N.W., 4801 Massachusetts Avenue, N.W., 4200 Wisconsin
Avenue, N.W. (Square 1560, Lot 807; Square 1599, Lots 24 & 812; Square 1600, Lots 1,
801, & 810; Square 1601, Lot 3; Square 1728, Lot 1; and Square 1786, Lot 10))**

July 8, 2021

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held public hearings on March 22, 2021, March 29, 2021, April 20, 2021, and April 28, 2021, to consider an application of American University (the “University,” “AU,” or the “Applicant”) for the review and approval of the 2021 American University Campus Plan for the period 2021-2031 (the “2021 Campus Plan”). The Commission considered the Application pursuant to Subtitle X, Chapter 1 of Title 11 of the District of Columbia Municipal Regulations (“DCMR”) (Zoning Regulations of 2016, the “Zoning Regulations,” to which all section references are made unless otherwise specified). The public hearings were conducted in accordance with the provisions of Subtitle Z, Chapter 4. The Commission approves the Application, subject to the conditions below.

FINDINGS OF FACT

Notice

1. On October 1, 2020, the University mailed a Notice of Intent to Advisory Neighborhood Commissions (“ANC”) 3D, 3E, 3C, and 3F, and the owners of all property within 200 feet of the perimeter of the subject property as required by Subtitle Z § 302.6. (Exhibit [“Ex.”] 2A.) In accordance with Subtitle Z § 302.8, representatives of the University made presentations to ANC 3D at its public meetings on July 1, 2020, September 2, 2020, October 7, 2020, and October 21, 2020 and to ANC 3E at its public meetings on November 12, 2020 and December 10, 2020. (Ex. 2, 6, 10.)
2. On January 12, 2021, the Office of Zoning (“OZ”) sent notice of the March 22, 2021 and March 29, 2021 virtual public hearings to:
 - The Applicant;
 - The affected ANCs 3D and 3E and adjacent ANCs 3C and 3F;
 - The affected ANC Single Member Districts (“SMD”) 3D01, 3D07, 3D08, 3E02, and 3E05;
 - The Office of Planning (“OP”);
 - The District Department of Transportation (“DDOT”);
 - The Department of Consumer and Regulatory Affairs (“DCRA”);

- The Office of the Attorney General (“OAG”);
 - The Ward 3 Councilmember; Chair of the Council; and the At-Large Councilmembers; and
 - Property owners within 200 feet of the 2021 Campus Plan properties. (Ex. 9, 12.)
3. Pursuant to Subtitle Z § 402.1, OZ also published notice of the March 22, 2021 and March 29, 2021 virtual public hearings in the *D.C. Register* on January 8, 2021 (68 DCR 000392, *et seq.*) as well as through the calendar on OZ’s website. (Ex. 8.)
 4. Pursuant to Subtitle Z § 402.3, the Applicant posted notice of the hearing on the Property on February 5, 2021, and maintained such notice in accordance with the Zoning Regulations. (Ex. 17.) On February 10, 2021, the Applicant did request a waiver of the posting and maintenance requirements under Subtitle Z §§ 402.8 and 402.10 to waive the notarization requirements for the postings and instead submit an affirmation of posting. (Ex. 16, 17.) Such waiver was granted by the Commission at the public hearing on March 22, 2021. (Transcript [“Tr.”] from March 22, 2021 hearing at pp. 6-7.)

Parties in Support and Opposition

5. On March 4, 2021, Spring Valley-Wesley Heights Citizens Association (“SVWHCA”) filed a request for party status (Ex. 26.), and on March 8, 2021, filed an updated request for party status (Ex. 26A.), as an opponent of the 2021 Campus Plan. The Commission granted SVWHCA’s request for party status. (Tr. from March 22, 2021 hearing at pp. 20-21.)
6. On March 4, 2021, Neighbors for a Livable Community (“NLC”) filed a request for party status (Ex. 27.), and on March 8, 2021, filed an updated request for party status (Ex. 27A.), as an opponent of the 2021 Campus Plan. The Commission granted NLC’s request for party status. (Tr. from March 22, 2021 hearing at p. 22.)
7. On March 4, 2021, Westover Place Homes Corporation (“WPHC”) filed a request for party status (Ex. 29.), and on March 6, 2021, filed an updated request for party status (Ex. 29A.), as an opponent of the 2021 Campus Plan. The Commission granted WPHC’s request for party status. (Tr. from March 22, 2021 hearing at p. 9.)
8. On March 5, 2021, Jessica Herzstein and Elliot Gerson (“Herzstein/Gerson”) filed a request for party status (Ex. 32.) as an opponent of the 2021 Campus Plan. The Commission granted Herzstein/Gerson’s request for party status. (Tr. from March 22, 2021 hearing at p. 10.)
9. On March 5, 2021, the American University Neighborhood Partnership (“AU Neighborhood Partnership” or “Partnership”) filed a request for party status (Ex. 33.) as a proponent of the 2021 Campus Plan. The Commission granted the AU Neighborhood Partnership’s request for party status. (Tr. from March 22, 2021 hearing at p. 8.)
10. On March 8, 2021, Concerned Neighbors at Corner of Nebraska Avenue, N.W. and Rockwood Parkway, N.W. (“Concerned Neighbors”) filed a request for party status (Ex.

36.) as an opponent of the 2021 Campus Plan. The Commission granted Concerned Neighbors' request for party status. (Tr. from March 22, 2021 hearing at p. 10.)

11. In addition to the Applicant, ANC 3D and ANC 3E were automatically parties to the case pursuant to Subtitle Z § 403.5. Ultimately, the parties to the case were the Applicant, ANC 3D, ANC 3E, SVWHCA, NLC, WPHC, Herzstein/Gerson, AU Neighborhood Partnership, and Concerned Neighbors. (Tr. from March 22, 2021 hearing at pp. 6-20.)

The Site

12. The property that is the subject of the Application includes the University's Main Campus (which includes the East Campus), the Tenley Campus (the home of the Washington College of Law), 3201 New Mexico Avenue, N.W., 4801 Massachusetts Avenue, N.W. (the Spring Valley Building), and 4200 Wisconsin Avenue, N.W. (collectively, the "Campus"). The 3201 New Mexico Avenue, N.W., 4801 Massachusetts Avenue, N.W., and 4200 Wisconsin Avenue, N.W. properties were not previously included in prior American University campus plans. Pursuant to the Zoning Regulations that became effective in 2016, all of these properties are now required to be included in the Commission's review of the University's 2021 Campus Plan. (Ex. 3, 3A.)
13. The Main Campus and Tenley Campus are located in the RA-1, RA-2, and R-1-B zones. The 3201 New Mexico Avenue, N.W. property is located in the MU-3A zone, and the 4801 Massachusetts Avenue, N.W. and 4200 Wisconsin Avenue, N.W. properties are located in the MU-4 zone. The Main Campus and Tenley Campus are currently improved with buildings that include academic and administrative uses, residential facilities, athletic and campus life facilities, as well as other ancillary uses that are related to the University. The 3201 New Mexico Avenue, N.W. property includes AU academic/administrative uses and non-university related uses. The 4801 Massachusetts Avenue, N.W. property includes academic/administrative uses. The 4200 Wisconsin Avenue, N.W. property includes academic/administrative uses, the Greenberg Theater (campus life use), and non-university related uses. (Ex. 3.)
14. The University is located within several established residential neighborhoods, including AU Park, Fort Gaines, Spring Valley, Tenleytown, Wesley Heights, and Westover Place. (Ex. 3, 3C.)

The Application

15. On December 14, 2020, the University filed its 2021 Campus Plan submission seeking approval of the 2021 Campus Plan for the period of 10 years from 2021 through 2031. (Ex. 1, 1A-1B, 2, 2A, 3, 3A-3F.) The submission included the 2021 Campus Plan together with the following exhibits (collectively, the "Applicant's Statement"):
 - An overview of existing Campus conditions; (Ex. 3A.)
 - The University's charter and act of incorporation; (Ex. 3A.)
 - The University's strategic plan, *Changemakers for a Changing World*; (Ex. 3A.)
 - A community impact report, *AU in the District*; (Ex. 3B.)
 - A Campus neighborhood context map; (Ex. 3C.)

- A description and timeline of the University’s community engagement process; (Ex. 3C.)
 - Student enrollment and employee population calculations; (Ex. 3C.)
 - Plans showing existing and proposed building uses as well as proposed development sites; (Ex. 3C.)
 - A development program summary; (Ex. 3D.)
 - A floor area ratio analysis; (Ex. 3D.)
 - An existing landscape, streetscape, and open spaces plan together with a visual diagram of special Campus features; (Ex. 3D.)
 - A proposed landscape, streetscape, and open spaces plan with illustrative concepts; (Ex. 3D.)
 - A Campus signage and wayfinding concepts plan; (Ex. 3E.)
 - A map showing the locations of special and heritage trees on Campus; (Ex. 3E.)
 - A topographical Campus map; (Ex. 3E.)
 - The locations of sustainability features; (Ex. 3E.)
 - A summary of historic resources; (Ex. 3E.)
 - An athletic and recreation facilities plan; (Ex. 3E.)
 - Updates to off-campus conduct policies; (Ex. 3F.)
 - Existing parking and loading facilities; (Ex. 3F.)
 - Proposed or potential parking and loading facilities; and (Ex. 3F.)
 - Maps showing existing and proposed/potential circulation across Campus (Ex. 3F.)
16. On February 10, 2021, the University filed a Comprehensive Transportation Review (“CTR”) in support of the Application. (Ex. 18, 18A, 18B.) The CTR concluded that the implementation of the 2021 Campus Plan is not likely to have an objectionable impact on the surrounding transportation network and neighboring properties assuming that the University continues to support and implement its Transportation Demand Management program and specific recommendations discussed below. (Finding of Fact [“FOF”] 82.)

Applicant’s Statement

17. The Applicant noted that the 2021 Campus Plan is an integral component in the successful implementation of AU’s strategic plan, *Changemakers for a Changing World*, and sets forth a thoughtful and measured approach to managing campus growth and development over the next 10years. Pursuant to the 2016 Zoning Regulations, the scope of the 2021 Campus Plan has expanded from prior campus plans and now includes university-owned properties at 4801 Massachusetts Avenue, N.W., 4200 Wisconsin Avenue, N.W., and 3201 New Mexico Avenue, N.W., along with the Main Campus and Tenley Campus. This expanded scope provides a more comprehensive perspective of university activities within the surrounding neighborhood context, and the impact of these regulatory changes is directly reflected in several aspects of the 2021 Campus Plan, including student and staff populations, parking inventory, and transportation considerations. (Ex. 3, 3A.)

Community Engagement and the Development of the 2021 Campus Plan

18. Over the course of two years, the University worked closely with the AU Neighborhood Partnership and a wide range of campus and community stakeholders to gather input and feedback on various planning concepts and priorities as they were developed. As a result

of this dedicated and collaborative effort, the University and the AU Neighborhood Partnership reached consensus on the objectives, proposals, and commitments set forth in the 2021 Campus Plan. (Ex. 3, 3C, 13.)

19. The AU Neighborhood Partnership is a collaborative forum connecting AU and leaders in the communities surrounding the University, focused on improving university and neighborhood relations through discussion, information sharing, and problem-solving. The Applicant stated that since its inception in 2018, representatives of all engaged stakeholder groups have actively participated in effective discussions to evaluate existing planning and programming efforts, identify creative solutions to address neighborhood quality-of-life issues, and share information and insight regarding matters of mutual concern. (Ex. 3, 3C.)
20. The Partnership is led by a Steering Committee comprised of AU staff and administrators and representatives of community organizations and ANCs who were signatories to the March 18, 2018 letter, expressing the intent and vision of the Partnership that was submitted to and recognized by the Commission. These founding members include the Fort Gaines Citizens Association, Spring Valley Neighborhood Association, Ward 3 Vision, Westover Place Homes Corporation, and ANCs 3D and 3E. Since the inception of the Partnership, neighborhood leaders of the Steering Committee have conducted direct outreach to actively recruit community members to serve on working groups to provide a collection of perspectives and viewpoints that help shape balanced and well-informed alternatives and solutions. (Ex. 3, 3C.)
21. The Partnership Steering Committee receives reports from five Partnership working groups that meet regularly to support University planning efforts and address shared goals for promoting positive relationships and neighborhood quality-of-life issues. Each working group has a community and University co-chair, and members include neighborhood residents, AU administrators, staff, faculty, students, and consultants. The five working groups include Facilities Planning, Student Life and Safety, Transportation and Parking, Engagement and Communications, and Data and Metrics. (Ex. 3, 3C.)
22. The American University Community Liaison Committee (“CLC”) is comprised of individuals from neighboring community organizations and representatives from the University and was affirmed in the 2011 Campus Plan approved by Z.C. Order No. 11-07 (the “2011 Campus Plan”) for the purpose of fostering consistent 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 campus plan. CLC meetings are held at least quarterly, and AU provides reports on various topics of interest to members of the community including enrollment, off-campus student conduct, construction projects, and community relations. (Ex. 3, 3C.)
23. AU representatives provided updates on the 2021 Campus Plan at regular CLC meetings, and also hosted special 2021 Campus Plan-focused CLC sessions on April 28 and 30, 2020, and on August 6, 2020, to solicit community input and feedback with respect to the key components of the 2021 Campus Plan. (Ex. 3, 3C.)

24. The University noted that it utilized several venues and forums to broadly engage neighborhood residents and community stakeholder groups in the development of the 2021 Campus Plan. These opportunities included meetings with the AU Neighborhood Partnership and the CLC, Planning 101 sessions that engaged the entire campus community and neighbors on various facets of planning, and numerous discussions with internal stakeholders and community organizations. This collaborative planning effort addressed major campus plan components including student enrollment, campus development, on-campus life, off-campus neighborhood quality-of-life issues, and parking and transportation. (Ex. 3, 3C.)
25. AU's 2021 Campus Plan website was launched in March 2020 to provide a wide range of information and materials, including meeting agendas, notes, and presentations; reports and data; and comprehensive FAQ resources. The website also included an online community input portal for neighbors and interested stakeholders to submit questions or feedback about the 2021 Campus Plan. Responses to over 150 questions submitted through the portal (or posed at public meetings, such as CLC sessions) were posted on the website for public review to allow all community members the benefit of seeing responses to issues raised by their neighbors. (Ex. 3, 3C.)
26. In early 2020, AU developed a *Preliminary 2021 Campus Plan Framework* that outlined the University's institutional objectives with respect to key components of the 2021 Campus Plan. The *Preliminary 2021 Campus Plan Framework* was circulated at the March 3, 2020 CLC meeting and was also posted on AU's 2021 Campus Plan website for public review. Interested stakeholders provided extensive feedback on the *Preliminary 2021 Campus Plan Framework* through a variety of channels including several Partnership meetings throughout spring 2020, internal stakeholder discussions (including a special session focused on AU student interests), two special 2021 Campus Plan CLC sessions on April 28 and April 30, 2020, a Planning 101 session open to all members of the community on May 19, 2020, and the online community input portal. (Ex. 3, 3C.)
27. On June 1, 2020, the University released an updated version of the *2021 Campus Plan Framework* that reflected the substantial input and feedback received throughout spring 2020 and included many significant updates and changes in response to issues raised by members of the community. The AU Neighborhood Partnership Steering Committee affirmed its consensus support of the June 1, 2020 *2021 Campus Plan Framework*. AU presented the *2021 Campus Plan Framework* to the CLC at its quarterly meeting on June 9, 2020, and it was the subject of a special CLC meeting on August 6, 2020. The *Framework* was also presented and discussed at ANC 3D and ANC 3E meetings in July and September 2020, as part of a comprehensive review timeline established and adopted by the ANC commissioners. (Ex. 3, 3C.)
28. Over the summer of 2020, the terms set forth in the *2021 Campus Plan Framework* affirmed by the Partnership were incorporated into a full draft of the 2021 Campus Plan document, including a set of proposed conditions of approval which were also reviewed and affirmed by the Partnership. The University posted the draft 2021 Campus Plan on AU's 2021 Campus Plan website for public review on September 8, 2020. Members of the

AU community, including students, faculty, and staff, as well as residents of the neighborhoods surrounding campus, including the CLC and all other interested stakeholders, were encouraged to review the draft 2021 Campus Plan and submit questions or comments through the online community input portal. (Ex. 3, 3C.)

29. Following review and consideration of the feedback and input received on the proposed draft document, the 2021 Campus Plan was finalized and submitted for review to ANCs 3D and 3E for their consideration prior to filing with the Commission for public hearing and subsequent review and action by the Commission. ANCs 3D and 3E each voted to support the 2021 Campus Plan on November 4, 2020 and December 10, 2020, respectively. (Ex. 3, 3C.)

Student Enrollment

30. The Applicant stated that a wide range of complex factors drive the continually changing dynamics of enrollment management in higher education. In order to remain competitive and thrive as a vibrant educational institution in the nation's capital, AU noted that it is focused on the need to maintain responsive flexibility and institutional agility, particularly as AU navigates the immediate and long-term impacts of the COVID-19 pandemic. (Ex. 3.)
31. In the context of the 2021 Campus Plan, the University's approach to enrollment management is further influenced by changes brought about by the 2016 update to the D.C. Zoning Regulations which impact the way AU and other universities throughout the District must count students. For AU, this new approach has expanded the scope of students included in the enrollment count—as the new regulations require that more types of students and students in a greater number of locations be counted. (Ex. 3, 3C.)
32. Student enrollment has been reported on an annual basis to the CLC based on the student count definition set forth in the 2011 Campus Plan. However, Subtitle Z § 302.10(d) of the 2016 Zoning Regulations includes a specific directive regarding the types of students to be counted, and Subtitle X § 102 calls for the inclusion of three University facilities that were not previously subject to the campus plan regulations—specifically 4801 Massachusetts Avenue, N.W. (Spring Valley Building), 4200 Wisconsin Avenue, N.W., and 3201 New Mexico Avenue, N.W. As a result of these regulatory changes, the same student population results in different student counts when using the methodology established in the 2011 Campus Plan compared to the new student count approach that meets the requirements of the 2016 Zoning Regulations because of the additional facilities. (Ex. 3, 3C.)
33. The additional students included under the 2016 Zoning Regulations methodology include those enrolled in the School of Professional and Extended Studies, non-credit, and pre-sessional students, most of whom currently take their classes at the Spring Valley Building. While the identical fall 2019 AU student population is represented in the headcount numbers under both methodologies, the new, expanded methodology under the 2016 Zoning Regulations yields an additional 780 reported students, or an increase of 6.61%. The vast majority of the students accounting for this increase is attributable to the additional University locations included in the 2021 Campus Plan. (Ex. 3, 3C.)

34. The 2011 Campus Plan established a student enrollment cap of 13,600 students. When the enrollment cap is adjusted by 6.61% to reflect the impact of the new methodology, the result is an increase from 13,600 to 14,499 students, which is the student enrollment cap that the University originally proposed to community members. (Ex. 3, 3C.)
35. Members of the community advocated for a more limited alternative to the 2021 Campus Plan enrollment cap. This approach would increase the enrollment cap by the number of additional students that would be counted under the 2016 Zoning Regulations methodology in Fall 2019 (i.e., 780), rather than the percentage of the total number of students represented by those additional students (i.e., the 6.61% or 899 students proposed by AU). The University agreed to modify its approach to the enrollment cap for the 2021 Campus Plan to reflect the methodology favored by several community members of the Neighborhood Partnership and other neighborhood stakeholders engaged in the planning process. Under this approach, the enrollment cap proposed for the 2021 Campus Plan is 14,380 students—a figure that is *lower than* the student enrollment cap established in the 2011 Campus Plan, when adjusted for the new methodology for counting students mandated under the 2016 Zoning Regulations. (Ex. 3, 3C.)
36. The 2011 Campus Plan established that a maximum of 2,000 students enrolled at the Washington College of Law may take classes at the Tenley Campus. Given that the current and anticipated enrollment of the Washington College of Law is substantially less than the existing Tenley Campus enrollment cap, AU proposed to allow students enrolled in other academic programs, including those that present opportunities for interdisciplinary collaboration, to attend classes at the Tenley Campus subject to the existing 2,000-student cap. (Ex. 3, 3C.)
37. Under the 2021 Campus Plan, AU stated it will continue to work collaboratively with members of the community through the AU Neighborhood Partnership to effectively address impacts on the neighborhoods surrounding campus. AU stated it is firmly committed to a results-oriented approach to reduce these impacts by revising student policies to more explicitly reference standards for off-campus living; providing additional on-campus housing in marketable unit configurations to encourage more students to remain on campus beyond their freshman year and reduce the number of undergraduates living in the neighborhoods surrounding campus; enhancing on-campus opportunities for student activities and social engagement; and evaluating programs and efforts over the term of the 2021 Campus Plan to ensure their efficacy. (Ex. 3.)

Undergraduate Housing Requirement

38. In support of AU's focus to manage the impacts of its student population and strengthen the living and learning experience on campus, and also to provide an appropriate measure of predictability and control with respect to the number of undergraduate students enrolled, the University proposed to continue to maintain a supply of housing for 67% of the full-time undergraduate student population. AU plans to meet this requirement over the 10-year term of the Plan through a combination of housing resources, including existing and proposed on-campus residence halls as well as off-campus master leased beds in strategic

locations that do not adversely impact the residential neighborhoods surrounding campus. (Ex. 3, 3C, 3D.)

Employee Population

39. The AU employee population is similarly impacted by the above-referenced changes to the 2016 Zoning Regulations. Given that 4801 Massachusetts Avenue, N.W., 4200 Wisconsin Avenue, N.W., and 3201 New Mexico Avenue, N.W. will now be included in the 2021 Campus Plan boundary, the University employees that work at these locations will also be included in the employee count and cap established in the 2021 Campus Plan. (Ex. 3, 3C.)
40. The proposed 2021 Campus Plan employee cap of 3,350, which would be in effect through 2031, reflects no change from the employee cap established in the 2011 Campus Plan, when adjusted to count employees who work at the additional properties that will be included in the 2021 Campus Plan pursuant to the 2016 Zoning Regulations. (Ex. 3, 3C.)

Campus Development

41. The Applicant noted that the proposed new development in the 2021 Campus Plan is not aimed at accommodating increases in approved enrollment levels, but rather providing the types of high-quality and forward-thinking facilities that are required to further the University's academic and research missions—including space for additional research labs and right-sized classrooms that promote the types of specialized instruction that is fundamental to the AU experience and differentiates the University from other peer institutions. Proposed residential, campus life, and athletic space will support efforts to strengthen and invigorate a student-centered living and learning campus experience for every AU student and also provide a thriving campus environment that benefits the entire University community as well as the neighborhoods surrounding campus. (Ex. 3, 3A-3F.)
42. Potential new development opportunities included in the 2021 Campus Plan total approximately 747,500 square feet of new gross floor area ("GFA"). The Applicant stated that the comprehensive and balanced development proposals outlined in the 2021 Campus Plan effectively address AU's residential/campus life, academic/administrative, and athletic space needs in a manner that reinforces the unique campus scale of AU, with heights and densities that correspond to the surrounding built environment, and setbacks, buffers, and design considerations that effectively mitigate potential adverse impacts and respect neighboring residential properties. AU also noted that it will continue to pursue strategic renovation and maintenance projects that reinvest in existing facilities but do not require the addition of any new GFA. (Ex. 3, 3D, 3E.)
43. *West Campus (Sites 1, 2, 3, 4, 5, and 6)*. Proposed development on the northwest quadrant of the Main Campus ("West Campus") will create an athletic, residential, and campus life village, including a new Center for Athletic Performance ("CAP"), consolidated and enhanced student health and wellness facilities, and additional student housing opportunities in competitive and marketable unit configurations to encourage more students to remain on-campus during their time at AU. This collection of new development will effectively transform what is now "back-of-house" and service areas of the Main Campus into a vibrant campus destination, while maintaining a substantial distance (e.g.,

approximately 400 feet from Site 2, 220 feet from Site 4, and 110 to 140 feet from Site 3 to the western campus boundary) and appropriate buffers (e.g., landscaping and trees along both sides of the University's fence line adjacent to University Avenue) from neighboring residential properties. AU identified Site 2 and Site 4 (as well as any residential uses that may be incorporated in Site 5) as the priority residential sites for the 2021 Campus Plan. These development opportunities would together yield approximately 500 new beds of on-campus housing to meet the housing target established by AU. In addition, the potential redevelopment of Asbury Hall (Site 6) would provide academic and research space to support the sciences and other synergistic disciplines adjacent to the new Hall of Science and proximate to other key academic buildings along the Friedheim Quadrangle. The Beeghly Building could be used for either academic/administrative or residential/campus life use over the term of the 2021 Campus Plan depending on campus needs; accordingly, Beeghly has been designated as a secondary residential site. The Applicant noted that as part of the further processing review and approval process for each of these proposed development sites, the University will work with members of the community, and particularly in consultation with the Facilities Planning Working Group, to ensure that vegetative buffers along the campus boundary at University Avenue are provided and maintained and that lighting impacts associated with the projects are addressed and appropriately mitigated. (Ex. 3, 3D, 3E.)

44. *Central Campus (Sites 7, 8, 9, and 10)*. The collection of properties around the Friedheim Quadrangle ("Central Campus") represents the vibrant core of AU's Main Campus. In support of the fundamental 2021 Campus Plan goal to strengthen and invigorate a student-centered living and learning campus experience, the University intends to renovate Mary Graydon Center over the term of the 2021 Campus Plan to serve as a re-envisioned hub of student life and activity. Potential new development around Friedheim Quadrangle may include a modest addition to Bender Library, expansion of Kay Spiritual Life Center to provide additional space for interfaith services and programming, and new administrative/academic space that could potentially connect the East Quad Building and Hurst Hall, addressing accessibility needs for the existing buildings as well as providing opportunities for programmatic connectivity. (Ex. 3, 3C, 3D.)
45. *Southeast Campus (Sites 11 and 12)*. The southeast quadrant of the Main Campus bounded by Nebraska Avenue and Rockwood Parkway ("Southeast Campus") is an important location that provides the initial visual impression of the AU campus to those arriving from the south and west. Redevelopment of this underutilized area of campus provides the opportunity to create a signature academic building that underscores the prominence of the location and also appropriately aligns with the height and scale of the adjacent School of International Studies (SIS) building, Bender Library, and other academic uses surrounding the Friedheim Quadrangle. Identified as Site 11, the conceptual massing and orientation of the potential project has been reconfigured after extensive community input to provide a substantial courtyard area along the campus perimeter and a deeper set back from the surrounding residential community. Site 12, which has been significantly reduced in height and overall massing from AU's initial concept proposal in direct response to feedback from members of the community, is proposed as a student housing site. Two levels of below-grade parking totaling up to 360 spaces could potentially be incorporated as part of the

development of Sites 11 and 12 and approximately 24 surface parking spaces along the existing Letts Roadway would be displaced. The Applicant noted that the determination of whether or not to include below-grade parking would be evaluated at the time AU moves forward with further processing for either or both of the sites. If AU desires to include below-grade parking, additional study including environmental impact, geotechnical analysis, and evaluation of potential garage access alternatives would be conducted and reviewed with members of the community, and particularly in consultation with the Facilities Planning Working Group and the Transportation and Parking Working Group, prior to the submission of a further processing application for the project. (Ex. 3, 3C, 3D, 3F.)

46. *East Campus (Site 15).* Site 15 is a uniquely prominent campus location along Ward Circle. A signature academic building of approximately 135,000 square feet is proposed for the site, including ground floor campus life uses along Nebraska Avenue and Ward Circle. In response to input from members of the community (and particularly residents of the nearby Westover Place community), the height and massing of the building has been modified to step down from four stories along Nebraska Avenue, to three stories along Massachusetts Avenue, to two stories along the back of the site closest to Westover Place. As part of the further processing review and approval process for Site 15, the University will work with members of the community, and particularly in consultation with the Facilities Planning Working Group, to ensure that a landscaped buffer along the boundary with Westover Place will be provided and maintained and that lighting and noise impacts associated with the project are addressed and appropriately mitigated. In addition, given the close proximity of several Westover Place homes to the proposed development site, AU will work directly with Westover Place residents along the common property boundary adjacent to Site 15 to document baseline conditions prior to commencing excavation or construction activity associated with the project. Potential below-grade parking of up to two levels (400 spaces) could be incorporated as part of the development of Site 15 and approximately 200 existing surface parking spaces would be displaced. The determination of whether or not to include below grade parking will be evaluated at the time AU moves forward with further processing for the site. If AU desires to include below grade parking, additional study including environmental impact and geotechnical analysis would be conducted and reviewed with members of the community, and particularly in consultation with the Facilities Planning Working Group and the Transportation and Parking Working Group, prior to the submission of a further processing application for the project. (Ex. 3, 3C, 3D, 3F.)
47. *Sites 13 and 14.* Two minor projects are proposed for the area of the Main Campus along Rockwood Parkway extending from Fletcher Gate west to Jacobs Field, specifically an addition to Watkins Hall to accommodate a vehicle maintenance shop (associated with the relocation of Osborn Hall that would be necessitated by the redevelopment of Site 2), and a storage area at the base of the existing communications tower. (Ex. 3, 3D.)

Tenley Campus, 4801 Massachusetts Avenue, 4200 Wisconsin Avenue, and 3201 New Mexico Avenue

48. While significant new development is not anticipated at the Tenley Campus, improvements to the Dunblane House to address accessibility requirements and accommodate academic and administrative needs are contemplated. No significant modifications or redevelopment projects are currently planned for 4801 Massachusetts Avenue, N.W., 4200 Wisconsin Avenue, N.W., or 3201 New Mexico Avenue, N.W. AU stated it will continue to evaluate the appropriate mix of university, commercial, and retail uses of these facilities over the term of the 2021 Campus Plan, consistent with each property's existing underlying zoning. (Ex. 3.)

Landscape, Streetscape, and Open Space

49. AU stated it has prioritized enhancing the campus landscape and open space elements that are distinctive to the University's urban campus environment—an accredited and award-winning arboretum with a diverse collection of over 3,800 trees, more than 385 species and varieties of woody plants, and countless perennials, annuals, bulbs, and ornamental grasses. The 2021 Campus Plan introduces new landscape and open space features in addition to existing spaces to ensure that members of the AU and surrounding community can enjoy the unique opportunities for outdoor recreation and social interaction, as well as study and peaceful respite, in the midst of an otherwise urban setting. (Ex. 3, 3D.)
50. To enhance access to these special places and throughout campus generally, AU stated it will pursue efforts to strengthen pedestrian circulation, particularly opportunities that reinforce east-west connections through campus from Reeves Field to Nebraska Avenue; improve conditions in and around buildings on the west side of campus; and enhance the campus streetscape, for example in connection with the proposed development along Nebraska Avenue. In addition, the University will explore efforts to improve its visual and graphic communication on campus through coordinated wayfinding and signage elements. (Ex. 3, 3D, 3E.)
51. The Applicant's proposed development sites were located and oriented so as to minimize the impact on existing campus trees. New trees and landscape elements will be included as part of proposed development projects and at other key locations around campus, enhancing the campus tree canopy and serving as natural buffers at campus edges. Details regarding the impact of each proposed development site on existing Heritage Trees and Special Trees including any necessary permitting and protection mechanisms to be employed will be provided as building footprints are confirmed during the further processing review process that is required for each development project. (Ex. 3, 3D, 3E.)

Sustainability Considerations

52. In 2008, AU signed the *American College and University President's Climate Commitment* and launched its journey toward carbon neutrality. Two years ahead of a target date of 2020, AU became the first university, first higher-education research institution, first urban higher-education campus, and the largest higher-education institution to achieve carbon neutrality. Since reaching that milestone, AU has worked to expand its commitment to a wide range of sustainability endeavors, developing a comprehensive sustainability plan

that includes more than 50 individual goals across various sectors of university life. (Ex. 3, 3E.)

53. The ongoing impact of AU's commitment to sustainability is evident throughout campus. Green buildings incorporate energy efficient technologies, utilize green roofs, and focus on human health. Environmentally conscious grounds management practices reduce stormwater runoff and prioritize planting local and adaptive species which decreases irrigation and fertilizer use. Solar energy powers university buildings, as members of the AU community strive for zero waste and actively work with community partners to offer sustainable transportation options. In 2020, the University divested all public fossil fuel investments from its endowment. (Ex. 3, 3E.)
54. With respect to campus development, American University uses the US Green Building Council's Leadership in Energy and Environmental Design (LEED) rating system for all new construction projects to evaluate the environmental impact and performance of campus buildings. In 2013, AU adopted a Green Building Policy which outlines the University's commitment to achieve a minimum of LEED Gold certification for all new construction projects and to manage all campus buildings to LEED Existing Buildings: Operations and Maintenance standards. Since 2011, eleven AU buildings have achieved LEED certified status. (Ex. 3, 3E.)

Historic Preservation Considerations

55. AU's history in the District of Columbia extends back more than 125 years. Although the original plan for the Main Campus developed by Frederick Law Olmsted was significantly modified due to financial constraints, the northern part of the planned quadrangle (now the Friedheim Quadrangle) serves as the most prominent open space on the Main Campus. Early University buildings, including Hurst Hall and McKinley Hall, remain as key academic buildings and important architectural resources. At the Tenley Campus, Washington College of Law students study in a 300,000 square foot LEED Gold certified facility that was intentionally and thoughtfully designed to honor the history and the legacy of the site, as the 1904 Capital Hall, 1921 Chapel and circa 1839 Dunblane House all continue to contribute to the character of the campus. (Ex. 3, 3E.)

Campus Life and Student Housing

56. The 2021 Campus Plan includes a strong and purposeful emphasis on campus life and student housing, focusing on efforts to provide attractive and functional spaces that encourage students to spend more time on campus during their years at AU. This approach is not only aimed at enhancing the living and learning experience of AU students, but will also benefit a wide range of stakeholders, including residents of the surrounding community. (Ex. 3.)
57. The 2021 Campus Plan calls for reinvigorating Mary Graydon Center as a campus hub for a myriad of student-focused activities, as well as repurposing existing and developing new space to accommodate integrated student health and wellness programs, particularly those focused on supporting students' mental health. A range of dining options and social

gathering places will also be pursued to provide a wider variety of choices at convenient locations around campus. (Ex. 3.)

58. Student housing is an important focus in the 2021 Campus Plan. In support of this effort, the University will prioritize renovations to existing housing inventory and has also proposed new facilities that will provide unit configurations and amenities that respond to student preferences. In addition, AU will support the creation of learning communities, affinity housing and other community-oriented housing experiences to encourage more upper-class students to live on campus beyond their freshman year. The prioritization of proposed new housing facilities has been informed by input from and collaboration with neighborhood stakeholders to ensure that impacts associated with student housing are appropriately addressed and effectively mitigated. (Ex. 3.)
59. AU stated it will continue to maintain a supply of housing for 67% of the full-time undergraduate student population through a combination of housing resources, including on-campus housing inventory (including 330 triples) and off-campus master leased beds that are subject to AU residence hall regulations. (Ex. 3.)
60. These new housing facilities would be designed in marketable and competitive unit configurations that meet student preferences, while also taking into consideration the implications of cost on students' housing decisions. The additional housing capacity proposed would support the University's goal of encouraging more students to live on campus beyond their freshman year, and allow AU the necessary flexibility in inventory to renovate existing residence halls over time to make less desirable—and more densely populated—facilities more competitive in unit type and configuration. (Ex. 3.)
61. Sites 2 and 4 (and any residential uses that may be incorporated in Site 5) on West Campus would together meet AU's target of approximately 500 additional beds and have therefore been identified as priority residential sites in the 2021 Campus Plan. These residence halls, along with the proposed Center for Athletic Performance and consolidated student health and wellness facilities, would effectively transform an underutilized area of campus into a vibrant athletic, residential and campus life village, while maintaining a substantial distance and appropriate buffers from neighboring residential properties. (Ex. 3.)
62. While it is AU's desired intent to maintain 200 master leased beds off-campus—to meet the needs of students who desire to live in vibrant commercial locations close to public transportation and retail amenities, without adversely impacting residential neighborhoods surrounding the campus—AU has noted throughout the planning process that in the event the current 200 off-campus master leased beds are no longer counted toward the 67% housing requirement, the University's target for additional on-campus beds would increase accordingly, up to approximately 700 total beds. Site 12 would provide for this additional capacity in the event the master leased beds are not available, or if additional housing capacity is otherwise necessary over the term of the Plan. The Beeghly Building could also potentially be considered for residential use over the term of the Plan, depending on campus needs. Site 12 and the Beeghly Building on Site 1 have accordingly been designated as secondary residential sites in the 2021 Campus Plan. (Ex. 3.)

Athletics and Recreation

63. Competitive intercollegiate athletics, robust recreational sports, and comprehensive fitness programs are all integral components of the AU student experience, yet AU's current facilities do not adequately serve the needs of the University community. Facility limitations are a significant challenge to recruit and retain high-level student-athletes, and club and intramural sports as well as recreational and fitness programs compete for field and studio space on campus. Accordingly, the 2021 Campus Plan proposes additional space and facilities to support a range of athletics and recreational activities, including the new Center for Athletic Performance, which would provide training and support areas for AU athletics as well as varsity, club, and intramural competition venues. The CAP would serve as a catalyst to recruit and retain world class student-athletes and inspire increased competitive excellence, enhancing the University's national profile, and heightening alumni and community engagement. (Ex. 3, 3E.)
64. Additional athletics and recreation projects include a filming tower at Jacobs Field, a replacement video scoreboard at Reeves Field, and re-turfed fields at Reeves Field and the park at 45th Street and Massachusetts Avenue, N.W. (Ex. 3, 3E.)
65. To address noise impacts associated with the use of Jacobs Field on neighboring properties, and to allow for greater access to the field for a wider range of uses than are currently permitted under the conditions of the 2011 Campus Plan as set forth in Z.C. Order No. 11-07, the 2021 Campus Plan includes a proposed acoustical sound barrier wall along the campus boundary adjacent to Jacobs Field. The University will work with the residents of 4710 Woodway Lane, N.W. and their acoustic engineers to design an acoustical sound barrier at the current fence line between Jacobs Field and 4710 Woodway Lane, N.W. and to apply for further processing within six months after the issuance of this Z.C. Order No. 20-31, and a building permit to construct the acoustical sound barrier within the time limits prescribed by the conditions agreed to in Exhibit 165 of the case record. As also detailed in those conditions, the University will take further ancillary measures to mitigate objectionable noises from Jacobs Field. (Ex. 3, 3E, 165, 169.)

Off-Campus Life and Neighborhood Quality of Life Efforts

66. The University works closely with students to educate them about their rights and responsibilities as residents of the District, as members of the AU community, and as neighbors within the residential communities near campus. Understanding that many students live off-campus at some point during their time at AU, the University has implemented a series of proactive measures to address off-campus student behavior. These measures include offering an enhanced off-campus orientation program that provides undergraduate students with an overview of the *Student Conduct Code* and guidance on how to be a good neighbor, covering issues such as excessive noise connected to social gatherings, home and yard maintenance, and other standard neighbor customs. (Ex. 3, 3F.)
67. The AU *Student Conduct Code* is designed to "support a safe, honest, and inclusive community with a shared commitment to acting with mutual respect and forming the highest standards of ethics and morals among its members." All American University

students are obligated, as a condition of enrollment, to abide by the *Student Conduct Code* and all relevant University policies and guidelines including the *Good Neighbor Guidelines*. This obligation is applicable to all conduct whether it occurs on or off-campus. (Ex. 3, 3F.)

68. In addition to the *Student Conduct Code*, all AU students are required to abide by all relevant University policies, including the *Good Neighbor Guidelines*. As members of the AU community, the behavior of students living in the community or commuting to classes reflects directly on the University. The purpose of the *Good Neighbor Guidelines* is to summarize the University's expectations and educate AU community members on how to become active and responsible members of the surrounding community in which they live, while maintaining their involvement and connection to the University. The AU *Good Neighbor Guidelines* inform students of their responsibility to be aware of and abide by applicable D.C. laws and regulations regarding noise, disorderly conduct, alcohol and marijuana consumption, winter sidewalk safety, and weed control around their residences. The guidelines also inform students that violations of the policy may be subject to disciplinary action under the *Student Conduct Code*. (Ex. 3, 3F.)
69. To better inform and educate students who choose to live off-campus of their rights and responsibilities, the University, in consultation with the AU Neighborhood Partnership Student Life and Safety Working Group, will implement an improved off-campus living orientation program. Managed by the Office of Campus Life, this program will include an online training module developed in consultation with the AU Neighborhood Partnership Student Life and Safety Working Group that students living in the 20016 or 20008 zip codes must complete. The *Pledge to Uphold Community Standards*, which details the responsibilities and obligations associated with living off-campus, will be developed in consultation with the AU Neighborhood Partnership Student Life and Safety Working Group and incorporated in the in-person and online training. Following the training, students must affirmatively acknowledge that they have fulfilled the training and understand the University's expectations. The Office of Campus Life will track participation and compliance with this program, and students not in compliance may be subject to adjudication under the *Student Conduct Code*. (Ex. 3, 3F.)
70. AU will expand its in-person off-campus housing orientation program to include a larger collection of student organization members and athlete groups. The University will also continue to periodically distribute a letter to students from the Office of the Dean of Students that specifically reminds them of the University's expectation that they maintain the condition of their property and manage the behavior of their guests. It will also state that AU expects students to know, understand and abide by the Disorderly Conduct Amendment Act of 2010 and the District of Columbia Noise Control Act of 1977, both of which address noise disturbances. Students will also be informed of the details of both ordinances during the orientation programs. (Ex. 3, 3F.)
71. To remain engaged with the broader residential community, AU will continue its practice of making annual or more frequent visits to major apartment complexes and condominium communities where students live. The Office of Community Relations will also create, in

consultation with the AU Neighborhood Partnership Student Life and Safety Working Group, a neighbor education tool that informs residents of the University’s strategies for student training and includes resources and directions on how to contact the University or file a complaint in the event of an undesirable incident. The University will also create and distribute, in consultation with the AU Neighborhood Partnership Student Life and Safety Working Group, an *AU Eagle Living Guide* that will include good neighbor tips, resources, and a copy of the *Pledge to Uphold Community Standards*. (Ex. 3.)

Transportation and Parking

72. American University has worked in close coordination with members of the community, specifically the Neighborhood Partnership Transportation and Parking Working Group, and DDOT to prepare a Comprehensive Transportation Review (“CTR”). The CTR consists of the multi-modal evaluation and assessment of current and future transportation operations with a focus on high quality site design, transit accessibility, and effective Transportation Demand Management (“TDM”) planning. (Ex. 3, 18A.)
73. Consistent with the requirements of the 2011 Campus Plan, the University currently maintains an inventory of 2,316 parking spaces on the Main Campus and the Tenley Campus. As a result of AU’s commitment to a range of TDM strategies, on a typical semester weekday, AU’s parking demand is only approximately 73% of the available parking inventory, demonstrating that the University is effectively managing its parking supply to accommodate demand. (Ex. 3, 3F, 18A.)
74. As discussed in FOFs 12 and 17 above, in response to changes included in the 2016 update to the Zoning Regulations, three University properties—4801 Massachusetts Avenue, N.W., 4200 Wisconsin Avenue, N.W., and 3201 New Mexico Avenue, N.W.—are included in the 2021 Campus Plan. Adding these properties results in an increase to AU’s potential parking inventory of approximately 725 spaces, of which approximately 385 are currently dedicated to university use. (Ex. 3, 3F, 18A.)
75. The 2011 Campus Plan requires that the University “maintain an inventory of approximately 2,200 parking spaces on campus” (with “campus” including only Main Campus and Tenley Campus). In light of the current parking inventory of 2,701 university-use spaces associated with all of the properties included in the 2021 Campus Plan (specifically Main Campus, Tenley Campus, 4801 Massachusetts Avenue, N.W., 4200 Wisconsin Avenue, N.W., and 3201 New Mexico Avenue, N.W.), the University is proposing to adjust the Campus Plan requirement to maintain a parking inventory of no more than 3,000 spaces for AU use, which would allow for up to 299 additional university-use parking spaces to be added to AU’s parking inventory over the term of the 2021 Campus Plan. Given that the aggregated university-use and non-university-use parking space capacity of all 2021 Campus Plan properties totals 3,045 parking spaces, AU would not necessarily be required to construct any additional parking infrastructure over the term of the 2021 Campus Plan to meet the proposed maximum 3,000 space university-use parking inventory. (Ex. 3, 3F, 18A.)

76. Proposed Sites 11/12 and Site 15 include the potential for below-grade parking, allowing up to approximately 336 and 200 net new additional parking spaces, respectively. While this inventory may not be necessary to support campus parking needs based on available parking inventory, potential below grade parking has been included for those sites to be considered at the time of further processing review. (Ex. 3, 3F, 18A.)
77. AU's approach to restricting parking supply for university use to no more than 3,000 spaces will ensure that AU provides an adequate parking supply from its inventory across all properties included in the 2021 Campus Plan to meet the needs of its current population and any potential growth over the term of the Plan. The proposal also reflects the University's continued commitment to effective TDM policies that reduce the number of single-occupancy vehicles ("SOVs") arriving to campus and in turn limit the need for additional parking resources. To confirm that the parking is appropriately priced and the supply adequately meets the needs of the AU population, the University will continue to regularly monitor and annually report utilization of its exclusively university-use parking facilities. (Ex. 3, 3F, 18A.)
78. As part of the campus planning process, the University has explored potential circulation changes that may occur as campus development projects are advanced to help improve the pedestrian campus experience and support alternative modes of transportation without adversely impacting University operations and services. These modifications could result in the bifurcation of campus vehicular traffic, creating north (Glover Gate) and south (Fletcher Gate) vehicular routes, limiting cross-campus vehicular traffic to transit, schedule-restricted service, emergency response vehicles, and special events. Such a change to campus circulation patterns would be implemented over time and in conjunction with various enabling campus development projects. Any modifications to campus access and associated transportation impacts would be subject to further study and analysis in connection with the further processing review associated with the related enabling project. (Ex. 3, 3F, 18A.)
79. Comprehensive TDM planning will remain a priority for the University over the term of the 2021 Campus Plan. Specifically, the University will maintain its robust shuttle service program that connects Main Campus, the Spring Valley Building, and the Tenley Campus with the AU/Tenleytown MetroRail station and supports ridership of more than one million trips annually. In addition, the AU/Wmata U-PASS® Program, which allows for unlimited student rides on all MetroRail and MetroBus routes throughout the region, significantly reduces the number of vehicle trips to campus by students. Between July 2018 and June 2019, AU states its students logged over 1.4 million system rides through the U-PASS® Program according to the University. The University will continue to maintain an active and comprehensive transportation programs website that outlines various transportation options and encourages the community to ride share, use transit, walk, or bike to campus. AU also offers a mobile app that provides members of the University community real-time information on various mobility options. (Ex. 3, 18A.)
80. The University will continue to work closely with DDOT and the community, particularly the members of the Transportation and Parking Working Group, to ensure that AU's TDM

policies and programs effectively support and incentivize sustainable travel modes—including walking, biking, and transit—for students, faculty, staff, and campus visitors over the ten-year term of the 2021 Campus Plan. (Ex. 3, 18A.)

81. AU will continue to maintain and enhance the *Good Neighbor Parking Policy* which effectively deters AU-related parking on neighborhood streets through vigilant enforcement efforts. The *Good Neighbor Parking Policy* was developed to achieve and maintain compliance with requirements established in both the 2001 and 2011 Campus Plans that the University “prohibit, to the extent permitted by law, students, faculty, staff and vendors from parking on streets adjacent to and surrounding the campus.” Specifically, the policy applies to on-street parking around the Main Campus, the Tenley Campus, the Spring Valley Building at 4801 Massachusetts Avenue, N.W., 3201 New Mexico Avenue, N.W., and the athletic field in the 4500 block of Massachusetts Avenue, N.W. The policy states that all members of the University community—including students, faculty, staff, vendors, and guests—are required to park their vehicle on campus or use publicly available transportation while attending class, working, or visiting AU-owned property. They are not permitted to park in the neighborhood. Compliance with the *Good Neighbor Parking Policy* is a condition of both enrollment and employment at the University, and failure to abide by the provisions of the *Good Neighbor Parking Policy* results in administrative fines and actions. AU will continue to work with the community to enhance this program. (Ex. 3, 18A.)

82. The CTR (Ex. 18A.) evaluated the 2021 Campus Plan for its impacts on the surrounding transportation network. Based on the technical analysis undertaken by Nelson\Nygaard, the CTR report concluded that the implementation of the 2021 Campus Plan is not likely to have an objectionable impact on the surrounding transportation network and neighboring properties assuming that the University continues to support and implement its Transportation Demand Management program and follows the following recommendations:
 - Continue to implement a robust Transportation Demand Management program that reduces the demand of single-occupancy vehicles on campus by students and employees. The University continues to refine the program and over the past 10 years has increased the non-auto mode share to 85% for students and 56% for staff and faculty;
 - Continue to operate the AU Shuttle Service, which in 2018 had a ridership of 1.2 million. The shuttles connect all campus locations in addition to accessing the Tenleytown-AU Metrorail station;
 - Actively support DDOT in identifying and locating a Capital Bikeshare station in the vicinity of Fletcher Gate and pursue expansion of the two existing Bikeshare stations along Nebraska Avenue and Massachusetts Avenue, N.W.;

- Collaborate with DDOT, ANCs, and other interested community stakeholders to effectively advance the recommendations contained within DDOT studies including bicycle, pedestrian, and multi-use facilities adjacent to American University property;
- Engage in ongoing discussions with Transportation Network Companies (“TNCs”) regarding dedicated Pick-Up/Drop-Off (“PUDO”) locations on campus and continue to collaborate with members of the community and DDOT to explore other locations and alternatives for PUDO solutions to mitigate the adverse impacts associated with pick-ups/drop-offs on Nebraska and Massachusetts Avenue adjacent to AU campus locations;
- Continue to provide DDOT with an annual Transportation Performance Monitoring Plan Report detailing the transportation mode split of AU students and employees and the utilization of exclusive university-use parking facilities (Main Campus, Tenley Campus, and 4801 Massachusetts Avenue, NW) on a typical semester weekday;
- Continue to implement the University’s *Good Neighbor Parking Policy* regarding enforcement of student, faculty, staff, and vendor off-campus parking;
- Maintain a parking inventory of no more than 3,000 spaces for university use inclusive of all 2021 Campus Plan locations. The University shall continually evaluate its pricing policies for parking with the intention of discouraging vehicle trips to campus without generating demand for off-campus parking by university-affiliated vehicles. Parking utilization analysis for all exclusive university-use facilities will be included in the annual Transportation Performance Monitoring Plan Report;
- Remain committed to providing sustainable transportation options as part of AU’s dedication to carbon neutrality. As a demonstration of this commitment, AU currently provides a total of 18 electric vehicle charging stations at locations on Main Campus and Tenley Campus;
- Ensure that the development of potential new parking supply, as outlined in the proposed 2021 Campus Plan on development Sites 11/12 and Site 15, will be the subject of further review and analysis in connection with the further processing review process associated with each respective project; and
- Recommendation of any potential modifications to connections to the external roadways at Glover Gate and Fletcher Gate, such as turn restrictions or signal changes, following further analysis and review in connection with the further processing case for the associated enabling project.

(Ex. 18A.)

Project Impacts

83. The Applicant’s Statement included the following information in satisfaction of the requirements set forth in Subtitle X § 101:

- *Subtitle X § 101.1: Educational Use by a College or University.* American University was established as a “university for the promotion of education [with the] power to grant and confer diplomas and the usual college and university degrees, and honorary degrees, and also such other powers as may be necessary fully to carry out and execute the general purposes of the [university]” by virtue of a Special Act of Congress of the United States, February 24, 1893 (27 Stat. 476), as amended by the following Acts of Congress: March 3, 1895 (28 Stat. 1814); June 30, 1951 (65 Stat. 107); August 1, 1953 (67 Stat. 359); October 31, 1990 (104 Stat. 1160); September 9, 1996 (110 Stat. 2378); (Ex. 3, 3A.)
- *Subtitle X § 101.2: The Uses Shall Be Located So They Are Not Likely to Become Objectionable to Neighboring Property Because of Noise, Traffic, Parking, Number of Students, or Other Objectionable Conditions.* The Applicant stated that the 2021 Campus Plan sets forth a thoughtful and measured approach to managing growth and development over the next 10 years. Envisioned and developed in close partnership with neighborhood stakeholders, the 2021 Campus Plan establishes a flexible yet predictable framework for future growth and development of the University in the context of its surrounding communities; (Ex. 3, 3A-3F.)

Noise. The comprehensive and balanced development proposals included in the 2021 Campus Plan effectively address the University’s residential/campus life, academic/administrative, and athletic space needs in a manner that reinforces AU’s unique campus scale with locations, heights, and densities of buildings and structures that correspond to the surrounding built environment. University policies regarding on-campus and off-campus student life also support an environment that is respectful of neighboring residential communities. Through the use of significant setbacks, buffers, design considerations, and student conduct policies, the existing and proposed uses by the University effectively mitigate potential adverse impacts related to noise on neighboring residential properties; (Ex. 3, 3A-3F.)

Traffic and Parking. The University noted that it has proposed to maintain a parking inventory of no more than 3,000 spaces (inclusive of all Campus Plan properties, specifically Main Campus, Tenley Campus, 4801 Massachusetts Avenue, N.W., 4200 Wisconsin Avenue, N.W., and 3201 New Mexico Avenue, N.W.) over the term of the 2021 Campus Plan. This proposed inventory ceiling, which would allow AU to utilize approximately 300 additional parking spaces for university use over the term of the 2021 Campus Plan, is not expected to create adverse traffic and parking impacts on neighboring properties. The 2021 Campus Plan also proposes significant improvements to the pedestrian campus experience without adversely impacting University operations and services. Importantly, the University will maintain its commitment to effective TDM strategies and vigilant enforcement of off-campus parking policies; (Ex. 3, 3F, 18A.)

Number of Students. The University is proposing an enrollment cap of 14,380 students. This enrollment cap is lower than the student enrollment cap established in the 2011 Campus Plan, when adjusted for the new methodology of counting students mandated

under the 2016 Zoning Regulations. In addition, AU will continue to maintain a supply of housing for 67% of the full-time undergraduate student population through a combination of housing resources, including on-campus housing inventory and off-campus master leased beds; (Ex. 3, 3C.)

Other Objectionable Conditions. The 2021 Campus Plan does not create any other objectionable conditions on neighboring properties. However, in order to mitigate any potential impacts, the University has proposed a comprehensive set of conditions of approval for the ten-year term of the Plan. In addition, the 2021 Campus Plan sets forth the University's commitment to continued active collaboration with neighborhood stakeholders in the implementation of the goals and objectives of the 2021 Campus Plan; (Ex. 3, 3A-3F.)

- *Subtitle X §§ 101.3 and 101.4: Analysis of Incidental Uses.* In order to support the operation of the University, a small number of commercial uses customarily incidental to university uses operate on campus, including a convenience market, UPS store, and the Campus Bookstore located at the Butler Pavilion and several food service venues throughout campus. Any future commercial uses are expected to be at locations discussed during the planning process (including campus life use spaces on the ground floor of buildings proposed at Sites 2, 5, 6, 7, 11, and 15) and will not have objectionable impacts on non-university residential neighbors due to hours of operation, noise, parking, loading, lighting, trash, or other operational characteristics that are not customarily associated with a residential use. More specific information and scope of these uses and the mitigation of their related impacts (if any) will be addressed in further detail with the AU Neighborhood Partnership and other University and community stakeholders at the time of a further processing application for the project. The total floor area of all commercial uses, including basement or cellar space, shall occupy no more than 10% of the gross floor area of the total campus floor area. All proposed commercial activities or developments generally described herein and more specifically proposed as part of a further processing application will be related to the educational mission of the University and none will be inconsistent with the Comprehensive Plan; (Ex. 3.)
- *Subtitle X §§ 101.5 through 101.7 and 101.12: Campus Development Standards.* The properties included in the 2021 Campus Plan are located within the RA-1, RA-2, R-1-B, MU-3A, and MU-4 Zone Districts; (Ex. 3, 3D.)

Density. As set forth in the Zoning Regulations, the maximum total density allowed for all building and structures within the RA-1 and R-1-B zoned areas of campus cannot exceed a floor area ratio (FAR) of 1.8. Pursuant to the Zoning Regulations, in calculating FAR the land area shall not include public streets and alleys, but may include interior private streets and alleys within the campus boundaries. The University certifies that the additional gross floor area proposed in the 2021 Campus Plan, together with the gross floor area of the campus as set forth in the 2011 Campus Plan and the gross floor area constructed since the approval of the 2011 Campus Plan, total a FAR of .91, just over 50% of the 1.8 FAR permitted under the Zoning Regulations. This low

level of density reflects the University's interest in maintaining the unique scale and character of the campus. An FAR analysis is included as Exhibit M in the Applicant's Statement; (Ex. 3, 3D.)

Height. Subtitle X § 101.5 permits a base height of 50 feet for campus buildings; under Subtitle D § 207.6 and Subtitle F § 203.3, the height may be increased to a maximum of 90 feet provided that each building is set back from adjacent lot lines at least one foot for each foot of building height exceeding 50 feet. Consistent with these regulations, all proposed campus buildings are within the 90 feet requirement; (Ex. 3, 3D.)

- *Subtitle X § 101.8: Plan for Campus as a Whole, Showing the Location, Height, and Bulk, Where Appropriate, of All Present and Proposed Improvements.* The 2021 Campus Plan includes a plan for developing the campus as a whole, showing the location, height, and bulk, where appropriate, of all present and proposed improvements; (Ex. 3, 3A-3F.)

Section 101.8(a): Buildings, Parking and Loading. The 2021 Campus Plan calls for new building development as follows: Academic/Administrative: 289,064 square feet of gross floor area; Residential/Campus Life: 355,936 square feet of gross floor area; Athletic: 102,500 square feet of gross floor area. The 2021 Campus Plan and CTR detail the locations of all existing and proposed parking and loading facilities; (Ex. 3, 3K.)

Section 101.8(b): Screening, Signs, Streets, and Public Utility Facilities. The 2021 Campus Plan recognizes the importance of the landscape and open space elements that are distinctive to AU's urban campus and introduces new features to further enhance the campus environment. Development sites have been located and oriented to minimize the impact on existing campus trees, and new trees will be planted in connection with proposed development projects and at other key locations around campus, expanding the tree canopy and serving as important buffers along campus edges. Vehicular circulation will be improved and pedestrian connections strengthened in an effort to enhance the use and enjoyment of the campus by members of the University community and residents of the neighborhoods surrounding campus. The University will also explore efforts to improve its visual and graphic communication on campus through coordinated wayfinding and signage elements. Details and locations of present and proposed screening, vegetative buffers, signs and wayfinding concepts, and streetscapes across Campus are included as Exhibits N through S in the Applicant's Statement. AU's department of energy and engineering is focused on operating and maintaining safe and reliable utility services for all campus facilities and driving the University toward intelligent and sustainable energy usage. As a result, the University continues to make strides to decrease carbon emissions by investing in its utilities infrastructure, increasing onsite power generation, and improving central plant efficiency. In 2019, AU completed a campus-wide conversion from steam to a low-temperature hot water heating system. The new system is expected to serve the campus for the next several decades in a cost- and energy-efficient manner—creating long-term

savings and reducing campus carbon emissions by 50%. In April 2020, five new natural gas micro-turbines began generating on-site electricity providing heat and power to the University. By co-generating energy onsite, AU's central plant becomes more efficient and the University's off-site electrical energy generation, purchasing, and delivery is reduced significantly. In support of AU's comprehensive commitment to sustainability, the University will continue to evaluate emerging energy technologies and resource conservation opportunities over the term of the 2021 Campus Plan, maintaining AU's leadership in green technologies both regionally and nationally, and aligning with the District's energy efficiency goals; (Ex. 3, 3D, 3E.)

Section 101.8(c): Athletic and Other Recreational Facilities. The 2021 Campus Plan proposes additional space and facilities to support a range of athletic and recreational activities, including the new Center for Athletic Performance which would provide training and support areas for AU athletics as well as varsity, club, and intramural competition venues. Additional projects include a proposed acoustical sound barrier wall and filming tower at Jacobs Field, a replacement video scoreboard at Reeves Field, and re-turfed fields at Reeves Field and the park at 45th Street and Massachusetts Avenue, N.W.; (Ex. 3, 3E)

Section 101.8(d): Description of All Activities Conducted or to be Conducted on the Campus, and the Capacity of All Present and Proposed Campus Development. The properties included in the 2021 Campus Plan accommodate a range of university uses and activities that not only fulfill AU's core academic and research missions, but also provide a supportive and engaging on-campus residential experience for AU students and create substantial opportunities and benefits for residents of the neighborhoods surrounding campus and throughout the District of Columbia. The University believes the capacity of all present and proposed campus development is sufficient to meet the needs of these activities for the term of the 2021 Campus Plan; (Ex. 3, 3A-3F.)

- *Subtitle X § 101.9: Further Processing for Specific Buildings, Structures, and Uses.* As required by § 101.9, the University will submit applications for further processing for specific buildings and uses set forth in the 2021 Campus Plan; (Ex. 3.)
- *Subtitle X § 101.10: No Interim Use of Land or Improved Property Proposed.* No interim use of property is proposed under the 2021 Campus Plan; (Ex. 3.)
- *Subtitle X § 101.11: Compliance with the Comprehensive Plan.* Compliance with the Comprehensive Plan is detailed in FOFs 85-91 below;
- *Subtitle X § 101.13: Referral to the District of Columbia Office of Planning, Department of Transportation, and Department of Energy and Environment.* The 2021 Campus Plan was referred by the Office of Zoning to the Office of Planning, Department of Transportation, and Department of Energy and the Environment for their review and written reports; (Ex. 3, 9, 49, 56, 111.)

- *Subtitle X § 101.14: Application is in Harmony with the Zoning Regulations.* The 2021 Campus Plan is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, and will not tend to affect adversely the use of neighboring property; (Ex. 3.)
- *Subtitle X § 101.15: Small Deviations from Approved Plans:* The provisions of this section are not applicable in this campus plan case; and (Ex. 3.)
- *Subtitle X § 101.16: A Further Processing of a Campus Building Shall Not be Filed Simultaneously with a Full Campus Plan Application.* No further processing applications were filed simultaneously with the 2021 Campus Plan application. (Ex. 3.)

84. The Applicant's Statement included the following information in satisfaction of the requirements set forth in Subtitle X § 102:

- *Subtitle X § 102: Special Exception for Use of Commercial Property by a College or University.* Section 102.1 requires that any property located in a low-density mixed use zone (which includes the MU-3 and MU-4 Zones) used by a university or college for academic and administrative uses to be permitted as a special exception, subject to review and approval by the Commission. However, § 102.5 allows an applicant to request that the use of such property under § 102 be reviewed as part of a campus plan application and that such use be subject to conditions of the campus plan approval and no additional special exception shall be required. The Applicant is requesting that its continued use of the properties located at 3201 New Mexico Avenue, N.W. (located in the MU-3A zone), 4801 Massachusetts Avenue, N.W. (located in the MU-4 zone), and 4200 Wisconsin Avenue, N.W. (located in the MU-4 zone) be reviewed and approved as part of the 2021 Campus Plan. By expanding the scope of the 2021 Campus Plan to include these properties, the Plan provides a more comprehensive understanding of the University's activities in the University buildings near the Main and Tenley Campuses and the student and employee populations that work and study at the locations are now included in the total student and employee population count. Similarly, the traffic and parking impacts of these properties are also included in the transportation and TDM measures that are proposed by the University. All of these properties currently include AU academic/administrative uses, and 4200 Wisconsin Avenue, N.W. also houses the Greenberg Theater (campus life use), consistent with the requirements of the 1958 Zoning Regulations.¹ The continued use of these properties for such University activities by AU will not create objectionable effects on the character of the surrounding neighborhoods or because of noise, traffic, lighting, or other conditions. (Ex. 3, 3A-3F, 18A.)

Not Inconsistent with The Comprehensive Plan

85. The Applicant stated its 2021 Campus Plan is not inconsistent with the District Elements of the Comprehensive Plan as detailed in the Applicant's Campus Plan submission. The

¹ 3200 New Mexico Avenue, N.W. and 4200 Wisconsin Avenue, N.W. include non-university related uses that are not subject to this 2021 Campus Plan application.

AU Main Campus and Tenley Campus are both located in the Institutional Land Use Category on the Future Land Use Map (“FLUM”) of the Comprehensive Plan and are designated as an Institutional site on the Comprehensive Plan’s Generalized Policy Map.² The continued use of the AU campus and the proposed new development and facility modernizations are consistent with these map designations, which provide for “change and infill” on university campuses consistent with campus plans. (See 10 DCMR § 223.22; Ex. 3.)

86. The Applicant stated its 2021 Campus Plan continues to encourage and foster many of the Land Use Elements of the Comprehensive Plan. Policy 2.3.5 of the Land Use Element, regarding Institutional Uses, recognizes the importance of universities to the “economy, character, history, and future of the District of Columbia.” AU has a long history of providing economic, artistic, and community service support to the District of Columbia and the surrounding community. Land Use Policy 2.3.5 also calls for “institutions and neighborhoods to work proactively” to address issues such as traffic, parking, and facility expansion. AU has worked closely with the AU Neighborhood Partnership, the CLC, and a wide range of University and community stakeholders to gather input and feedback on the 2021 Campus Plan. That process has resulted in the University and the AU Neighborhood Partnership reaching consensus on the objectives, proposals, and commitments set forth in the 2021 Campus Plan. (Ex. 3.)
87. Land Use Policy 3.2.1 supports the ongoing efforts by “District institutions to mitigate their traffic and parking impacts by promoting ridesharing, carpooling, public transportation, shuttle service and bicycling, providing on-site parking, and undertaking other transportation demand management measures.” (See also Policy EDU 3.3.5). In addition, Policy T-3.1.1 of the Transportation Element provides support for the use of programs that reduce the number of car trips. The Applicant stated its 2021 Campus Plan effectively addresses these Elements of the Comprehensive Plan through a comprehensive approach to transportation and parking considerations, including the University’s proposal to maintain a parking inventory of no more than 3,000 spaces (inclusive of all Campus Plan properties, specifically Main Campus, Tenley Campus, 4801 Massachusetts Avenue, N.W., 4200 Wisconsin Avenue, N.W., and 3201 New Mexico Avenue, N.W.) over the term of the 2021 Campus Plan. In addition, the University will maintain its commitment to effective TDM strategies and vigilant enforcement of off-campus parking policies. (Ex. 3, 18A.)
88. Land Use Policy 3.2.3 seeks to ensure that colleges and universities that are located within residential areas are planned, designed, and managed in a way that minimizes objectionable impacts on adjacent communities. As detailed in FOF 83 and 84 above, the Applicant stated its 2021 Campus Plan minimizes objectionable impacts on the surrounding communities. (Ex. 3, 3A-3F, 18A.)

² The 3201 New Mexico Avenue, N.W. property, the 4801 Massachusetts Avenue, N.W. property, and the 4200 Wisconsin Avenue, N.W. property are all located in the Low Density Commercial FLUM category, which is used to define shopping and service areas that are generally low in scale and character. (See 10 DCMR § 225.8.) 4200 Wisconsin Avenue, N.W. is designated as a Main Street Corridor on the Generalized Policy Map.

89. The Applicant stated its 2021 Campus Plan will also help further important policies and goals of the Economic Development of the Comprehensive Plan. The Economic Development Element notes that educational services are a “core” District industry (*See* Policy ED-1.1.2.) and Policy ED-2.4.1 “supports growth in the higher education” sector based on its potential to create jobs and income opportunities as well as enhance District cultural amenities. AU is the fifth largest non-government employer in Washington, D.C. and has annual total economic impacts of \$1.7 billion. (Ex. 3, 3B.)
90. The Educational Facilities Element of the Comprehensive Plan includes policies that encourage university growth and development through the campus plan process and attention to community issues and concerns. (*See* Policies EDU-3.3.2 and 3.3.3.) The Applicant stated its 2021 Campus Plan sets forth a predictable, balanced, and flexible plan that accommodates AU’s growth while respecting and enhancing the quality of life of those who live within the neighborhoods surrounding campus, and the comprehensive planning process has allowed for a wide range of university and community stakeholders to provide meaningful input and feedback. (Ex. 3, 3A-3F.)
91. The Applicant stated its 2021 Campus Plan also continues to be consistent with Policies of the Rock Creek West Area, in particular Policy RCW-1.1.8 *Managing Institutional Land Uses* and Policy RCW-1.1.12 *Congestion Management Measures*. Policy RCW-1.1.8 notes that redevelopment or expansion of institutional land uses needs to be compatible with the physical character of the community, states that the density of future institutional development should reflect surrounding land uses as well as input from the local community, and encourages the minimization of potential adverse effects. Policy RCW-1.1.12 seeks to ensure that land use decisions do not exacerbate congestion and parking problems in already congested areas. The Applicant stated its 2021 Campus Plan proposes development on sites that are compatible with the physical character of the community at appropriate densities. The 2021 Campus Plan has been the subject of significant community input and the University has proposed conditions of approval which further minimize any potential adverse effects. Finally, the significant TDM measures proposed by the University address Policy RCW-1.1.12. (Ex. 3, 3A-3F, 18A.)

Responses to Application

Office of Planning (“OP”)

92. OP filed its report in this case on March 12, 2021. In its report, OP recommended approval of the 2021 Campus Plan, subject to the following conditions: (i) the maximum student enrollment and faculty/staff shall be accepted at the proposed 14,380 students and 3,350 faculty/staff; (ii) the 2021 Campus Plan shall be valid for a period of 10 years; (iii) prior to providing additional retail uses on the Main and East Campuses an analysis of the existing retail uses and the necessity for additional retail uses should be provided; (iv) for further processing requests information should be provided to assess project impact, particularly buffering and setbacks, traffic, and visual impacts; (v) continued enforcement of the Student Code of Conduct; (vi) no additional or expanded master leases for off-campus student housing; (vii) implementation of the Historic Preservation Office recommendations

on page 10 of the OP report; and (viii) expedite the construction of the sound barrier adjacent to Jacobs Filed before any other further processing. (Ex. 56.)

93. The OP report noted that the University proposed 15 projects over the next 10 years to support their academic, residential, administrative, and athletic programs. The location and approximate footprint of the existing and proposed new developments are shown at Exhibit 3C, pages 20 and 24. New developments are limited to the Main Campus and discussions of these projects in OP's report are preliminary as more detailed drawings and information would be provided at the time of further processing of the individual buildings. (Ex. 56.)
94. The Historic Preservation Office noted that the 2021 Campus Plan's focus on new development in the West, Southeast, and East section of the Main Campus "is clearly consistent with the goal of preserving the historic character concentrated in the Central Campus." (Ex. 56.) The HPO did not state that the 2021 Campus Plan raises any major historic preservation concerns.
95. The OP report recommended that AU take the following actions in support of historic campus resources: (i) research and document the University's original campus plan; (ii) maintain and expand online historical information from the University's archives; (iii) complete a comprehensive survey, documentation, and evaluation of Main Campus buildings, structures, and landscape features in coordination with HPO with results being made available to the public; and (iv) adopt and implement a schedule for nominating eligible historic resources to the DC Inventory of Historic Sites and National Register of Historic Places. (Ex. 56.) These issues were addressed in the Applicant's proposed condition number 11 at Exhibit 3.
96. With respect to noise, the OP report noted that the location and size of the proposed residential and athletic facilities when combined with the use of the existing playing fields on the West side of the Main Campus, could create an objectionable condition for the neighbors to the immediate west, and that further assessments of noise mitigation measures would be addressed at the time of further processing for these buildings. (Ex. 56.) This is consistent with the Applicant's Campus Plan statement and was addressed in the Applicant's proposed condition number 8 at Exhibit 3.
97. OP noted that the sound barrier wall addressed in the 2011 Campus Plan and in Z.C. Order No. 11-07G has not yet been constructed, but that the University has stipulated that they will continue to coordinate with the residents and at proffered a condition of approval of the 2021 Campus Plan that they will file a further processing application within 12 months of the order of approval for construction of a sound barrier. (Ex. 22.) OP recommended that AU should expedite the construction of the sound barrier adjacent to Jacobs Field before any other further processing.³ (Ex. 56.) This issue was addressed in the Applicant's proposed condition number 27 at Exhibit 3.

³ Following the submission of the OP report, the Applicant and Herzstein/Gerson, as the owners of the residential property adjacent to Jacobs Field, reached an agreement on the proposed conditions related to the use of Jacobs

98. With respect to proposed Building 15 on East Campus, OP reported that Westover Place residents have expressed concerns regarding noise, light, and air impacts; however, OP noted that having nonresidential use, two stories, and a buffered setback should minimize noise impacts and recommended that the University continue to work with the residents through the further processing review and approval process to minimize and objectionable impacts. (Ex. 56.)
99. OP indicated that it continues to be supportive of the University's transportation demand management plan and efforts to include access to alternative forms of transit for students, faculty, and visitors on campus. (Ex. 56.)
100. With respect to number of students and faculty, OP recommended that the overall student cap of 14,380 be adopted which includes the maximum 2,000 students at the Tenley Campus and that flexibility be given to the University to determine the mix of undergraduate and graduate students. However, OP noted that such flexibility may lead to an increase in trips between the Main Campus and Tenley Campus and therefore recommended that the University consider using a shuttle bus to transport students between campuses. (Ex. 56.)
101. OP supported maintaining the existing percentage of University-provided student housing for 100% of the University's full-time freshman and sophomore students and for 67% of all full-time undergraduates. OP further noted that the sites identified for student housing on Main Campus seem appropriate as the locations are sufficiently buffered from neighboring low-density residential areas. (Ex. 56.)
102. OP did not recommend the use of any additional off-campus master leases besides the 200 beds at The Frequency Apartments at 4000 Brandywine Street, N.W. ("The Frequency Apartments") to meet the University's undergraduate student housing requirement. (Ex. 56.) OP was concerned that off-campus master leases impact available housing and affordable housing for non-student tenants. This issue was addressed in the Applicant's proposed condition number 12 at Exhibit 3.
103. OP noted that retail uses have been accepted as part of campus plans as customary accessory uses to a university operation, but that there is insufficient detail to understand the existing and proposed retail program throughout the campus. OP recommended that retail uses proposed for the East Campus be very limited and targeted so as not to compete with the retail center at 3201 New Mexico Avenue, N.W. (Ex. 56.)
104. Residents of the Westover Place community expressed concerns about the retail uses proposed at Site 15. OP noted that the proposed retail use for any new building would be small, and their impacts would be assessed at the time of further processing, at which time

Field, which were filed at Exhibit 165. Herzstein/Gerson submitted a post-hearing submission at Exhibit 169 which supports adoption of the proposed conditions filed at Exhibit 165.

AU should clarify the amount, location, and potential retail uses envisioned for the new building. (Ex. 56.)

105. OP found that the 2021 Campus Plan is not inconsistent with many of the Citywide and Rock Creek West Area Elements of the Comprehensive Plan. Attachment I of the OP report provided a detailed list of such elements. (Ex. 56.)
106. In testimony at the March 29, 2021 public hearing, OP representative Maxine Brown-Roberts confirmed OP's support for the 2021 Campus Plan and recommended its approval subject to the recommendations and conditions outlined in OP's report. (Tr. from March 29, 2021 hearing at pp. 28-31.)

Department of Transportation (“DDOT”)

107. DDOT filed its report in this case on March 12, 2021. In its report, DDOT confirmed that the agency had no objection to the approval of the 2021 Campus Plan with the following conditions included in this Order: (i) there will be a maximum of 14,380 students, 3,350 staff/faculty, and 3,000 vehicle parking spaces across all campus sites, as proposed by the Applicant in the 2021 Campus Plan; (ii) this Order for the 2021 Campus Plan will carry forward the TDM conditions from the 2011 Campus Plan with the modifications identified in the February 10, 2021 CTR and the Applicant will continue the shuttle program and will submit detailed annual performance monitoring reports to DDOT that will include additional information such as parking utilization; (iii) prior to Commission approval of the Application, DDOT requested that the Applicant submit a clean document to DDOT for concurrence containing the modified TDM program, performance monitoring criteria, and infrastructure commitments which will ultimately be included as conditions and allow DDOT to provide additional feedback, if any;⁴ and (iv) the Applicant will fund and install one new 19-dock Capital Bikeshare station on campus with one year of maintenance and operations expenses, as well as a least one four-dock expansion plate to each of the two existing stations on Nebraska Avenue and Massachusetts Avenue, N.W., subject to DDOT approval. The DDOT report noted that it will work with the Applicant on a final location of the new station during permitting. If it is located on private property, the Applicant will enter into a Memorandum of Agreement with DDOT to ensure public access to the station and bicycles. (Ex. 49.)
108. The DDOT report found the Applicant's trip generation estimates using existing traffic data and mode split survey data to be acceptable and concluded that the Applicant utilized sound methodology to perform its analysis. (Ex. 49.)
109. DDOT concluded that the TDM plan included in the February 10, 2021 CTR (Ex. 18A.), along with detailed annual performance monitoring and a proposed third Capital Bikeshare station is sufficiently robust to encourage non-auto travel to and from the campus, subject to any additional feedback from DDOT on the strategies and criteria included in the clean document containing the modified TDM program, performance monitoring criteria, and

⁴ In response to DDOT's request, the Applicant submitted the clean document compiling its proposed TDM program initiatives and performance monitoring plans set forth in the CTR into the record at Exhibit 99.

infrastructure commitments requested by DDOT to be submitted by the Applicant prior to Commission approval. (Ex. 49.)

110. In its report, DDOT noted that it will further coordinate with the Applicant in the public space permitting process as well as any further CTR analyses. The Applicant is expected to work with DDOT and its team on any proposed public space improvements, the implementation of any Livability Study recommendations along Campus site frontages, the final location of a third on-campus Capital Bikeshare station and expansion of existing stations, strategies to provide safe pick-up and drop-off operations for rideshare services, and the implementation of the TDM plan. Furthermore, DDOT asked the Applicant to submit future performance monitoring reports to DDOT's TDM team for review and concurrence. (Ex. 49.)
111. Aside from the items noted in the TDM and DDOT's proposed revisions to those plans (which are reflected in the Applicant's Response to DDOT Request for Supplemental Information (Ex. 99.) and were confirmed as acceptable to DDOT (Tr. from March 29, 2021 hearing at p. 32.)), DDOT determined that no additional mitigation is necessary. (Ex. 49.)
112. In testimony at the March 29, 2021 public hearing, DDOT representative Ted Van Houten testified that DDOT reviewed the University's 2021 Campus Plan and is supportive of the proposal, and specifically concurred with the Applicant's proposal to change from a parking minimum to a parking maximum of 3,000 spaces for all campus sites. (Tr. from March 29, 2021 hearing at p. 32.)
113. Mr. Van Houten further testified that DDOT supports the Applicant's Transportation Demand Management and Performance Monitoring Plan which is included in the record at Exhibit 99. (Tr. from March 29, 2021 hearing at p. 32.)

Department of Energy & Environment ("DOEE")

114. By e-mail dated March 22, 2021, Casey Studhalter of DOEE noted that the agency did not have any formal comments to submit for the record but did indicate that DOEE met with the Applicant's project team, and that a more substantial, full regulatory compliance review by DOEE and other appropriate agencies, including the Environmental Impact Statement Form process, Stormwater Management Permit review, and Green Building Act and DC Green Construction Code compliance, will occur during the permit application process for individual projects. (Ex. 111.)

Advisory Neighborhood Commission 3D ("ANC 3D")

115. By letter dated December 15, 2020, ANC 3D indicated that, in a publicly-noticed regular meeting on November 4, 2020, with a quorum of five Commissioners present, ANC 3D voted 4-0-1 to submit the letter entered into the record as Ex. 10 regarding the 2021 Campus Plan. The letter indicated that ANC 3D strongly endorsed the 2021 Campus Plan developed by American University and the AU Neighborhood Partnership and urged the Commission to approve it. The letter further describes ANC 3D's review process; examines questions raised by neighbors concerning the 2021 Campus Plan and ANC 3D's responses to them;

identifies certain issues that required additional discussion with the University and describes how they were resolved; and provides ANC 3D's conclusions and recommendations. (Ex. 10.)

116. At ANC 3D's July 2020 meeting, the University presented the contents of its *Framework* document, which represented the outline and major conclusions envisioned for the 2021 Campus Plan. Commissioner Kravitz, in his capacity as co-chair of the AU Neighborhood Partnership, provided an overview of the development of the Partnership. Key milestones and guiding principles were described in detail and questions were solicited from the audience and Commissioners. Also during this July 2020 meeting, ANC 3D adopted a non-binding schedule for consideration of the 2021 Campus Plan consisting of extensive discussions at both September 2020 and October 2020 meetings with a vote provisionally scheduled for the November 2020 meeting. Neighbors were informed of these forthcoming meetings and this proposed schedule not only through the posting of the draft schedule prior to the July 2020 meeting and the discussion of it at the July meeting, but also through notices in the local listservs as well as on ANC 3D's website. Throughout this process, neighbors were urged to bring any concerns they might have to the attention of ANC 3D. (Ex. 10.)
117. At ANC 3D's September 2020 meeting, the University presented a summary of its *Framework* and then Commissioner Kravitz, again on behalf of the Partnership, presented an extensive discussion, detailing many of the Partnership's major decisions (and the reasoning behind them) that shaped the *Framework* and helped inform the drafting of the 2021 Campus Plan. These Partnership discussions had evolved over the course of the preceding year and a half through reviews by the Partnership working groups (which neighbors were invited to join) and the Partnership Steering Committee composed of leaders from neighborhood organizations and University officials. Following these two presentations, the audience and ANC 3D Commissioners were given the opportunity to raise questions and make comments. Following ANC 3D's September meeting, the University released a draft of its full 2021 Campus Plan on September 8th, and notices were placed on ANC 3D's website and in local listservs of the Plan's availability and ANC 3D's intention to discuss the 2021 Campus Plan in detail at its October meeting. (Ex. 10.)
118. At ANC 3D's October 2020 meeting, the University presented a summary of the full draft 2021 Campus Plan and engaged in a discussion which continued at a special meeting of ANC 3D held on October 21, 2020. (Ex. 10.)
119. ANC 3D concluded that the University conducted an extensive public engagement process for the 2021 Campus Plan over and above its interaction with the Partnership. At least one member of ANC 3D attended most of these numerous meetings in order to hear public concerns. (Ex. 10.)
120. ANC 3D noted that a number of issues were raised during the consideration of the 2021 Campus Plan in various forums including ANC 3D meetings, such as student enrollment estimates; the timing of the ANC 3D vote; whether parking garages should be built at Sites

11/12 and Site 15; if the proposed buildings impose objectionable impacts; if there are objectionable impacts related to transportation; if there are objectionable impacts related to student behavior, especially off-campus; and whether the 2021 Campus Plan needs an undergraduate enrollment cap. (Ex. 10.)

121. With respect to enrollment estimates for the ten-year term of the 2021 Campus Plan, ANC 3D considered whether ANC 3D should have required the University to estimate its enrollment, by category, for the 10 years covered by the draft 2021 Campus Plan and whether, without such data, it is possible for ANC 3D to do a complete review of the 2021 Campus Plan. ANC 3D determined that both the University and the Partnership addressed this issue. The Partnership did not request enrollment projections from the University. The Partnership reported several reasons for this, the most salient being that enrollment projections provided during campus plan proceedings are non-binding and that projected enrollment numbers provided during previous campus plan proceedings have not proven to be particularly accurate over the ensuing ten-year horizons. This reasoning was explained to ANC 3D, which also did not request enrollment projections from the University. ANC 3D additionally noted that enrollment projections are not required by the Commission or the Office of Planning during campus plan proceedings. (Ex. 10.)
122. The Partnership argued that the total number of students, even undergraduate students, is not a good indicator of the potential objectionable impacts of a university's operations on the surrounding neighborhoods. Instead, the Partnership suggested, and ANC 3D concurred, that the policies put in place to mitigate adverse impacts of the University's operations are more important. Thus, the Partnership worked to create robust university plans to handle impacts of its proposed buildings, transportation issues, and off-campus living impacts on the neighborhood. ANC 3D shares with the Partnership the belief that the best way to control potential impacts is through these plans and that any review of a 2021 Campus Plan should focus on these plans instead of enrollment projections. (Ex. 10.)
123. ANC 3D further believes, especially since the University has proposed an enrollment cap encompassing all students, that holding the University to tight numeric limits or estimates of certain categories of students—such as undergraduates—is too blunt an instrument for effectively controlling impacts of students on surrounding neighborhoods and that an examination of the University's commitments to deal with certain kinds of impacts is a preferable means of review. For that reason, ANC 3D focused on the University's placement and orientation of proposed buildings, its transportation plans, and its enhanced program to deal with the impact of students living off campus in the neighborhood and did not ask the University to project enrollment over the 10 years of the 2021 Campus Plan. (Ex. 10.)
124. ANC 3D noted that some neighbors expressed concern that while the University says it plans to add approximately 500 new beds under the 2021 Campus Plan, the capacity of the new dormitories shown in the 2021 Campus Plan could accommodate 910 new beds. Under the 67% bed requirement for undergraduates, this would mean that the University could admit up to 1,358 additional undergraduates. Both the Partnership and the ANC have

reviewed this 2021 Campus Plan assuming that in fact the 1,358 additional undergraduates could materialize during the life of this 2021 Campus Plan. With the mitigation efforts undertaken during the drafting of the 2021 Campus Plan, ANC 3D believes that this number of new undergraduates, even if realized despite expectations to the contrary, would not result in objectionable impacts. (Ex. 10.)

125. In response to concerns about whether the 2021 Campus Plan needs an undergraduate enrollment cap, ANC 3D noted that several universities are subject to an undergraduate enrollment cap. One of the purposes of such an undergraduate enrollment cap is to impose some control over potential objectionable impacts caused by having “too many” undergraduates. American University does not have an explicit undergraduate enrollment cap, but does have an indirect one in the form of a requirement to maintain a supply of university-provided housing sufficient to house 67% of its full-time undergraduates. ANC 3D concluded that the best way to mitigate potential objectionable impacts of students is through enhanced policies related to student conduct and transportation, as well as careful review of any proposed new buildings. ANC 3D found that there is a good balance between that general constraint imposed by the 67% bed count and the enhancement of the student life and transportation programs found in the 2021 Campus Plan. Therefore, ANC 3D stated it supports the maintenance of the 67% rule plus the enhanced mitigation programs rather than an explicit undergraduate enrollment cap. (Ex. 10.)
126. ANC 3D noted that some neighbors have argued that ANC 3D should not have voted to support the 2021 Campus Plan on November 4, 2020, prior to the University submitting its 2021 Campus Plan to the Commission. In response, ANC 3D pointed out that the *2021 Campus Plan Framework* document has been widely advertised since March 2020 and that the actual 2021 Campus Plan draft has been publicly available since September 8, 2020. Numerous neighborhood meetings were held and over 145 questions were submitted to the University. ANC 3D began its official review of the 2021 Campus Plan at its July meeting and held four more sessions to review the plan in September, October, and November 2020. Consequently, ANC 3D believes community members were well informed of the contents of the 2021 Campus Plan and given numerous opportunities to express any concerns. Furthermore, ANC 3D voted on the 2021 Campus Plan prior to its submission to the Commission so that ANC 3D’s report could be included in the submission materials. ANC 3D has reserved time on its December 2020 meeting agenda to ensure the submitted version of the 2021 Campus Plan matched the version that ANC 3D voted upon and approved. (Ex. 10.)
127. ANC 3D noted that some neighbors argued that the 2021 Campus Plan is incomplete and does not meet the requirements of Subtitle X § 101.8 and Subtitle Z § 302.10. ANC 3D’s reading of these regulations did not result in identifying areas where the 2021 Campus Plan falls short of the requirements. However, ANC 3D noted that there is some understandable and possible disagreement about the interpretation of the new regulations in terms of where the line is to be drawn between what is required with the initial campus plan application and what is required with future applications for further processing. This is a technical

point that the ANC 3D left to the Commission to determine as it reviewed the 2021 Campus Plan. (Ex. 10.)

128. ANC 3D noted that neighbors have expressed concern about whether building new parking garages beneath two of the development sites in the 2021 Campus Plan will generate adverse impacts on the community in terms of traffic congestion and related effects. ANC 3D believes that it is entirely appropriate to examine whether or not the building of these parking garages may have an objectionable impact on the community, but that it is premature to address this issue at this stage of the proceedings. The best time to consider these potential impacts is at the time of further processing for these sites when there will be significantly more details available to inform these decisions. (Ex. 10.)
129. ANC 3D noted that neighbors raised questions about the mass of the buildings proposed in the 2021 Campus Plan, their height, and their use (administrative, residential, student life). During the development of the *2021 Campus Plan Framework* document that laid the groundwork for the actual 2021 Campus Plan, many of these concerns were raised and the University made a number of changes to adjust the massing and height of key buildings and to keep student life functions away from close-by neighborhoods such as Westover Place. In reviewing the resulting plans, ANC 3D found that at the generality at which this 2021 Campus Plan is required to be drafted at this stage in the proceedings, these buildings do not appear to pose objectionable impacts. ANC 3D reserved the opportunity to examine these buildings again at the time of further processing when more details and studies will be available. Should objectionable impacts be found at that stage, ANC 3D will raise them with the University and, where necessary, with the Commission. (Ex. 10.)
130. ANC 3D concluded that they did not anticipate that the 2021 Campus Plan would result in objectionable impacts related to increased traffic or parking in the neighborhood. In addition, ANC 3D noted that the University is committing to continuing to conduct an aggressive Transportation Demand Management program to minimize the number of single-operator vehicles driven by staff and students coming to the campus and to enforce the *Good Neighbor Parking Policy* that discourages university-associated drivers from parking in the neighborhood. ANC 3D indicated that if concerns arose before the hearing on the 2021 Campus Plan or at the further processing stage, ANC 3D stands ready to raise them with the Commission. Additionally, ANC 3D appreciated the University's creation and sharing of the Comprehensive Traffic Review so early in the 2021 Campus Plan process. The Comprehensive Transportation Review had been a topic of discussion and revision roughly six months before the University would have been required to share it with the public. (Ex. 10.)
131. ANC 3D noted that as part of the 2021 Campus Plan the University committed to enhancing its programs to deal effectively with objectionable off-campus student behavior. In particular, the University proposed to emphasize prevention of behavior problems by fully and frequently informing students of the University's expectation that students adhere to the *Student Code of Conduct* and District of Columbia laws and to take appropriate action when students deviate from the Code. The University committed to work closely with the

Partnership and ANC 3D to monitor the effectiveness of its enhanced program and to seek adjustments as possible improvements become apparent. ANC 3D stated it believes that this enhanced program has the strong potential to mitigate the objectionable impacts that have been the subject of complaints from neighbors in the past. (Ex. 10.)

132. In addition to community questions raised about the 2021 Campus Plan, ANC 3D also highlighted issues that have required additional discussion with the University to resolve. ANC 3D noted that in the September 8, 2020 draft of the 2021 Campus Plan, the University announced that it planned to build a sound wall at the edge of Jacobs Field in order to mitigate the noise impacts of the use of this field on an adjacent property. The draft included a set of more liberal conditions that the University proposed take effect once the sound wall is erected. ANC 3D concluded that while some changes to the conditions may well be appropriate once the sound wall is built, it was premature to determine what those new conditions should be until the wall is designed, the sound generating sources are geographically determined, and the acoustical results are calculated by acoustical engineers. In its final version of the 2021 Campus Plan the University dropped these new conditions, postponing the drafting of any new conditions until further processing for the sound wall. ANC 3D found this change in the 2021 Campus Plan met its previous concerns, provided the current conditions are maintained and actively enforced.⁵ (Ex. 10.)
133. ANC 3D noted that during the review of the draft 2021 Campus Plan, there was a general consensus that master leases, such as the one at The Frequency Apartments where almost all of the units are part of the lease, successfully mitigate any objectionable impacts and should be allowed to continue counting towards the 67% bed count requirement. In its proposed 2021 Campus Plan, the University retained the policy that master leases that cover all or almost all of the units in a building would count toward the 67% bed requirement. With regard to all other proposed master leases (in buildings where the University does not acquire all or almost all of the building's beds), the University would present the proposed master lease to ANC 3D and ANC 3E during their regular meetings and the ANCs would then have the opportunity to address the matter with the public at their next regularly scheduled meeting, should they see fit. Then, the approval of the lease as counting toward the 67% requirement would be addressed by the Partnership, on whose Steering Committee ANC 3D and ANC 3E representatives serve. ANC 3D found this arrangement satisfactory because it ensures a full public review of the proposed lease where the ANC finds that appropriate. (Ex. 10.)
134. ANC 3D noted that the University reports periodic measurements of the utilization of the parking facilities in its buildings. In the past, however, these reports have aggregated the reports from all of its buildings into one number indicating the utilization across all of its facilities. ANC 3D suggested to the University that these periodic measurements be reported additionally for each general location (Main Campus, East Campus, Tenley

⁵ Since the date of the ANC 3D report, the University engaged with Herzstein/Gerson as the owners of the residential property adjacent to Jacobs Field and reached an agreement on a more comprehensive set of proposed conditions related to the use of Jacobs Field, which were filed at Ex. 165 of the case record. These proposed conditions address and mitigate the noise impacts related to the use of Jacobs Field on the adjacent property.

Campus, 4801 Massachusetts). In response, the University agreed to provide annual reports to the Transportation and Parking Working Group that detail utilization rates at the Tenley, East, and Main Campuses and the Spring Valley Building. These reports will be available to ANC 3D, and ANC 3D found this to be a satisfactory solution to the problem identified. (Ex. 10.)

135. ANC 3D further noted that a minimum parking requirement, which was suggested by some neighbors, would be an indirect and inflexible tool for controlling parking in the neighborhood. It would not respond to changes in automobile ownership and use patterns (and hence campus parking demand) that are likely to change over the ten-year term of the 2021 Campus Plan. ANC 3D stated it believes the University's more direct and flexible approach consisting of three components provides the best assurance to the neighborhood that University parking in the neighborhood will not become a serious problem: (1) the periodic survey of parking utilization; (2) a continuation of the University's aggressive program to encourage its students, staff, and visitors to use alternative means of transportation, adjusted, if needed, if the demand were to put a strain on the parking capacity (which is unlikely); and (3) continued active enforcement of the University's *Good Neighbor Parking Policy*. (Ex. 10.)
136. ANC 3D noted that there is a lack of adequate bicycle infrastructure along Nebraska Avenue from Tenley Circle near the Tenleytown Metro, past the Main Campus, to Rockwood Parkway at the edge of the campus. Improved infrastructure in this corridor would serve both the neighborhood and the University's students, faculty, and staff. The University agreed to update the CTR recommendations to provide that AU will collaborate with DDOT, ANCs, and other interested community stakeholders to effectively advance the recommendations contained within DDOT studies including bicycle and multi-use facilities adjacent to American University property. This agreement satisfied ANC 3D's concerns. (Ex. 10.)
137. ANC 3D noted that one of the loudest complaints about the University that ANC 3D Commissioners hear from the public is the frequent violation of D.C.'s traffic laws by vehicles-for-hire that stop in the travel lane on both Nebraska Avenue and Massachusetts Avenue near the campus to pick up and discharge their passengers. ANC 3D asked the University to join the neighboring ANCs in pressing DDOT to find solutions. The University agreed to update the CTR recommendation to indicate that it will continue to collaborate with members of the community and DDOT to explore solutions to mitigate the adverse impacts associated with pick-ups/drop offs on Nebraska and Massachusetts Avenues adjacent to AU campus locations. ANC 3D stated it will work with the University and DDOT to find a satisfactory solution to this problem. (Ex. 10.)
138. ANC 3D noted that the University has proposed to use a portion of proposed Building 15 for student life activities. At the request of the residents of Westover Place, which is adjacent to the site, the University located these activities in the portion of the building furthest away from Westover Place. However, there is still concern among Westover Place residents about the nature of these activities and their impact on the wellbeing of Westover Place residents. While ANC 3D stated it believes the decision regarding exactly what

student life activities will be placed in Building 15 should be dealt with at the further processing stage, ANC 3D asked the University to commit to plan for these activities so as to mitigate any objectionable impacts from these activities on Westover Place residents. In response, the University indicated it was committed to such mitigation. (Ex. 10.)

139. ANC 3D recommended to the University that discussion of the 2021 Campus Plan performance occur approximately twice a year at ANC 3D meetings using appropriate metrics and data arrived at in collaboration with the Partnership. These discussions would allow a wider population of the community to hear how the University is responding to issues and concerns as well as allow the ANC 3D Commissioners and community members to make suggestions to the University. The University indicated that it does not object to these periodic reports to ANC 3D. (Ex. 10.)
140. In testimony at the March 29, 2021 public hearing, ANC 3D Commissioner Chuck Elkins addressed several statements made in the submitted materials from various Parties in Opposition, regarding the effectiveness of the CLC, the Partnership's relationship to the CLC, issues regarding Partnership membership, claims of Partnership exclusivity, and the assertion that the Partnership operates under a gag rule. (Ex. 116; Tr. from March 29, 2021 hearing at pp. 102-115.)
141. In response to concerns that the AU Neighborhood Partnership should not have been created because CLC was operating effectively, Commissioner Elkins referred the Commission to a letter dated December 8, 2016 submitted by ANC 3D into the case record of Z.C. No. 11-07F at Exhibit 39. The letter states that at the Commission's July 14, 2016 hearing on Z.C. Case No. 11-07F, representatives of both ANC 3D and SVWHCA testified that CLC "had failed to function as an adequate forum for the discussion and resolution of neighborhood issues associated with AU." The letter further reports that ANC 3D and SVWHCA had signed an agreement with the University's vice president to establish the Neighborhood Collaborative, an organization which would become the AU Neighborhood Partnership. Commissioner Elkins testified that the Partnership was intended to operate separately and independently from the CLC because the agreement (attached as an exhibit to ANC 3D's December 8, 2016 letter) states the Neighborhood Collaborative would "share its work" with the CLC and not report to or be subject to oversight by the CLC. (Ex. 116; Tr. from March 29, 2021 hearing at pp. 103-108.)
142. In response to concerns that the Partnership inappropriately excluded neighborhood associations, Commissioner Elkins stated that the Partnership's formation agreement among ANC 3D, SVWHCA, and the University stated the organization was intended to address issues of concern for neighbors "who live immediately adjacent to the main campus." Commissioner Elkins went on to testify that members of every neighborhood bordering the Main Campus were represented on the Partnership's Standing Committee and that the absence of SVWHCA and NLC was due to their refusal to join the Partnership—not because the Partnership intentionally excluded them. Commissioner Elkins also argued that there is no gag rule in place, but that the Partnership's organizational documents encourage members to refrain from speaking to the public on behalf of other members or

their working group and that requests to keep proprietary information confidential were rarely made. (Ex. 116; Tr. from March 29, 2021 hearing at pp. 108-114.)

143. Commissioner Elkins also responded to the argument that the CLC was not adequately consulted in the development of the 2021 Campus Plan, and provided details regarding the process undertaken for review, comment, and discussion of the 2021 Campus Plan including CLC and ANC 3D meetings during which the 2021 Campus Plan was specifically addressed. (Ex. 116; Tr. from March 29, 2021 hearing at pp. 116-120.)
144. Commissioner Elkins raised concerns about Parties in Opposition SVWHCA and NLC bringing de novo arguments to the Commission that could have been raised in the community discussions and reviews focused on the 2021 Campus Plan. Commissioner Elkins also clarified that WPHC and Concerned Neighbors did not raise de novo arguments in these Commission hearings. (Ex. 116; Tr. from March 29, 2021 hearing at pp. 123-126.)
145. In summary, Commissioner Elkins noted that AU received valuable help from a well-functioning and inclusive Partnership of neighbors in developing its proposed draft *Framework* for the 2021 Campus Plan, which was the subject of review by the CLC and a five-month review by ANC 3D, accompanied by a campaign that reached out to the community and asked them to identify objectionable impacts. ANC 3D stated the University made changes in response that are reflected in the 2021 Campus Plan filed with the Commission. ANC 3D concluded that it is possible for American University to implement the 2021 Campus Plan in a manner that will not create objectionable impacts. (Ex. 116; Tr. from March 29, 2021 hearing at p. 131.)

Advisory Neighborhood Commission 3E (“ANC 3E”)

146. In a statement submitted to the record on December 21, 2020, ANC 3E stated that, in a properly noticed meeting at which a quorum was present on December 10, 2020, ANC 3E voted 3-0-1 to approve a resolution in support of the 2021 Campus Plan. (Ex. 6.)
147. ANC 3E noted that in contrast to the 2011 Campus Plan (Z.C. Case No. 11-07) where the campus plan was debated in parallel with the further processing of several proposed buildings making for a complex and ultimately contentious process, §101.16 of the 2016 Zoning Regulations seeks to avoid that situation by separating the two processes. ANC 3E agrees with this change in that it clearly delineates the process of planning for campus development versus the process of implementing those plans. (Ex. 6.)
148. ANC 3E noted that in response to the Commission’s concerns about the process, engagement, and tenor of the 2011 Campus Plan, AU and the community, starting with the parties to the 2011 Campus Plan, set about reimagining how they could engage in productive, respectful, transparent, collaborative, and ongoing discussions with each other, guided by the Commission’s suggestion of using Georgetown University’s Georgetown Community Partnership as a template of how to accomplish that goal. The result was the American University Neighborhood Partnership, the primary mechanism with which the 2021 Campus Plan was discussed and created. The Partnership was affirmed by the

Commission as part of Z.C. Order No. 11-07G for the Hall of Science further processing. (Ex. 6.)

149. ANC 3E noted that the AU Neighborhood Partnership sought to include a wide and representative cross-section of the communities surrounding the University, not just the 2011 Campus Plan parties, when creating the 2021 Campus Plan in order to assure that not only were their views considered and incorporated, but that they be able to participate in implementing the Plan once it was in place. (Ex. 6.)
150. ANC 3E noted that the Partnership began its work in December of 2018 and continues now and into the future. ANC 3E believes the enhanced structure, addition of a diverse range of community voices, commitment to a consensual and collaborative decision-making process, and the sustainable nature of these attributes will benefit both the University and the community as the Plan is implemented, especially in regard to further processing cases. (Ex. 6.)
151. ANC 3E noted that the 2021 Campus Plan foresees no significant buildings or structures within or immediately adjacent to ANC 3E's boundaries. Thus, ANC 3E was not concerned about the direct impacts of buildings or structures but instead their indirect ones. (Ex. 6.)
152. ANC 3E noted that the 2021 Campus Plan states that it will still maintain the 67% housing requirement established as part of the 2011 Campus Plan, including the 200-bed exception currently housed at 4000 Brandywine Street, N.W. (The Frequency Apartments) via a master lease. ANC 3E stated it supports the continuation of this arrangement with the caveats that are included in the 2021 Campus Plan if the University were to change this arrangement or to propose any additional buildings for master leases. ANC 3E stated it is of the opinion that additional on-campus housing is preferable to displacing existing housing and would recommend the University create new on-campus housing whenever possible. ANC 3E stated it supports the Applicant's proposal to build 500 new beds on campus in order to house more students. (Ex. 6.)
153. ANC 3E noted that the 2021 Campus Plan states that the University will abide by an overall enrollment cap of 14,380 for all students including a 2,000-student cap for the Tenley Campus. Student enrollment assessment has changed in the 2016 Zoning Regulations, adding additional students and locations not counted in previous campus plans which is reflected in the new cap of 14,380 versus the old cap of 13,600. ANC 3E stated it has reviewed the methodology the University used to arrive at this new cap number and agrees with the result. (Ex. 6.)
154. ANC 3E indicated that it supports the proposed enrollment cap and agrees with the AU Neighborhood Partnership's stance that ANC 3E is more interested in mitigating the impacts of student enrollment rather than focusing on hard caps. (Ex. 6.)
155. ANC 3E noted that the 2021 Campus Plan's CTR foresees no significant impact from the proposed developments. ANC 3E stated it sees no significant impact from the 2021 Campus Plan but did ask for several issues to be addressed including: the impact of the

shuttle bus stop located at the rear of the Spring Valley Building on 48th Street; the impact of for-hire vehicles such as Uber and Lyft doing drop-offs and pickups on the surrounding community; the continuation and enhancement of the *Good Neighbor Parking Policy*; supporting increased bicycle use and infrastructure; addressing transportation impacts of special events, and in particular managing bus traffic and idling; and lastly, the assurance that adequate parking exists in coordination with a holistic approach to minimizing and mitigating vehicular trips to and from the campus. (Ex. 6.)

156. ANC 3E noted that the University has addressed each of these concerns in the 2021 Campus Plan including: agreeing to move the shuttle bus stop on 48th Street to Massachusetts Avenue; working with DDOT and the Transportation and Parking Working Group to mitigate the impacts of for-hire vehicles; continuing and enhancing the *Good Neighbor Parking Policy*; working with ANC 3E and DDOT to identify bicycle infrastructure opportunities, especially along Nebraska and New Mexico Avenues; agreeing to add a new Capital Bikeshare station and expanding existing stations; working with the AU Neighborhood Partnership to establish guidelines for special events that anticipate and mitigate their impacts; and agreeing to a maximum of 3,000 parking spaces while continuing to implement proactive parking pricing policies in order to discourage single-occupancy vehicle trips to campus. (Ex. 6.)
157. ANC 3E also recognized the need to monitor compliance with the commitments of the 2021 Campus Plan, and stated it supports the University's proposal to establish a TDM dashboard in order to make the data public and readily available. (Ex. 6.)
158. ANC 3E noted that during the 2011 Campus Plan process, ANC 3E made clear its dissatisfaction with how the University was handling student behavior, particularly students in off-campus housing. The University responded with several strategies to address the issues and the AU Neighborhood Partnership placed particular emphasis on ensuring that students are well-informed of the University's expectations regarding their behavior via the *Good Neighbor Guidelines* and its relation to the *Student Code of Conduct*; and the application of these expectations via the *Student Code of Conduct*. The University has pledged to work closely with the AU Neighborhood Partnership and ANC 3E to monitor the effectiveness of this program and to adjust it as needed. ANC 3E stated it believes the University and the proposed 2021 Campus Plan satisfactorily addresses these concerns and provides the necessary processes to manage them on an ongoing basis. (Ex. 6.)
159. In testimony at the April 20, 2021 public hearing, ANC 3E Commissioner Jonathan McHugh testified that ANC 3E participated in the creation, implementation, and operation of the AU Neighborhood Partnership, and believes it to be an effective and equitable vehicle for the University to engage with the community, which stands "in stark contrast to the previous state of affairs, which were ridden with confusion, mistrust, and ineffectiveness" with the University and stakeholders pitted against each other. (Tr. from April 20, 2021 hearing at p. 9.)

160. Commissioner McHugh testified that the Partnership was a “tremendous improvement” and that “ANC 3E wholeheartedly supports the continuance and enhancement of it.” (Tr. from April 20, 2021 hearing at p. 9.)
161. Commissioner McHugh stated that ANC 3E supports the 2021 Campus Plan’s 67% housing requirement for the University’s full-time undergraduate student population and recognizes that use of the existing 200 master leased beds at The Frequency Apartments mitigates impacts of student housing on the surrounding community because of The Frequency Apartments’ unique location in Tenleytown Center which is close to the Metro station, bus routes including the University’s shuttle bus, and many community amenities. While ANC 3E is wary of additional off-site housing, it acknowledges the University’s plan to add 500 on-campus beds in the 2021 Campus Plan as “a clear and concrete affirmation that they will endeavor to meet their 67% requirement.” (Tr. from April 20, 2021 hearing at pp. 9-10.)
162. Commissioner McHugh testified that ANC 3E supports the overall enrollment cap of 14,380 students, but does not support the idea of an undergraduate enrollment cap, preferring to evaluate the impact student enrollment has on the surrounding community versus an arbitrary enrollment cap. (Tr. from April 20, 2021 hearing at p. 10.)
163. Commissioner McHugh testified that ANC 3E supports the Applicant’s transportation proposals, including building on its success in creating and implementing a modern transportation management plan that focuses on minimizing single-occupancy vehicles and providing a diversity of modalities in order to go to and from the campus. (Tr. from April 20, 2021 hearing at p. 11.)
164. In conclusion, Commissioner McHugh testified that “ANC 3E has found the 2021 Campus Plan process has been a far more constructive and effective one than ten years ago, and we hope that augurs well for the next ten years. The creation of the Neighborhood Partnership, while a significant undertaking to stand up, has been a tremendous boon in the creation of the Plan, and we hope the Commission agrees with and endorses its continued role as a centerpiece for implementing it.” (Tr. from April 20, 2021 hearing at p. 12.)

Advisory Neighborhood Commissions 3C and 3F

165. ANCs 3C and 3F did not participate in this case.

American University Neighborhood Partnership (“AU Neighborhood Partnership” or “Partnership”)

166. In its submission dated December 23, 2020, the American University Neighborhood Partnership indicated its support of the 2021 Campus Plan and urged its approval by the Commission, noting that the 2021 Campus Plan was the culmination of several years of productive collaboration between the University and the surrounding community. (Ex. 13.)
167. The Partnership noted that the creation of a consensus-based campus plan is a significant achievement stemming from the Partnership formed between the University and its nearby

- neighborhoods. The Partnership stated the process was long and entailed several difficult negotiations—including some items left to be determined during potential further processing applications—but it was characterized by collegiality and a genuine interest in seeing things from the other side. (Ex. 13.)
168. The Partnership noted that the 2021 Campus Plan suitably balances the University’s need for flexibility and the community’s desire for certainty. Optionality is embedded within the Plan to better position the University to respond to changing conditions. Simultaneously, the community has been presented with a fulsome slate of potential actions the University may take and a roadmap for how the University intends to resolve those decisions points as the future unfolds. (Ex. 13.)
 169. The Partnership acknowledged that it is poised to continue fostering the close collaboration of the University and the community during the Plan’s implementation. (Ex. 13.)
 170. The Partnership outlined the rationale for its support of the 2021 Campus Plan, noting that while the development of campus plans and their implementation is a major focus, the Partnership has a broader mission of sustaining a productive town-gown relationship more generally. The Partnership stated that compared to the CLC, which has functioned mainly as a means by which the University can report to the community on its activities, the Partnership is more of a “roll up one’s sleeves” problem-solving organization. (Ex. 13.)
 171. The Partnership adopted the view that they were not really concerned with the exact number of students as much as with their impact, and the Partnership’s goal was to mitigate whatever potential negative impacts the University may impose upon the community while expanding upon the positive impacts. The Partnership stated it did not push the University to make non-binding enrollment projections, and rather thought about how to manage the impacts for any number of students. (Ex. 13.)
 172. The Partnership went about managing potential negative impacts by trying to create processes that prevent objectionable impacts from happening in the first place, and thinking through the type of structure that must be in place to deal with those impacts adequately, effectively, and quickly when they do happen. To that end, the Student Life & Safety Working Group has set out to improve the student experience in the community from the community’s perspective and from the students’ perspective. (Ex. 13.)
 173. The Partnership stated it began its consideration of potential new construction on campus by first looking at existing campus uses and identifying potential “opportunity sites” on campus. Through discussions in the Partnership working groups and the Steering Committee, some buildings were removed from consideration and other buildings that remained in the 2021 Campus Plan were altered substantially based upon community input. During earlier discussions Building 4 wrapped around the corner of Building 3 and was closer to the adjacent Spring Valley neighborhood. Building 12 had different massing and was a floor taller. Likewise Building 15 was larger and had student life uses throughout the ground floor. Its massing is now smallest on the part of the building closest to the Westover Place community. The proposed building will be two stories along the fence line—similar

to what currently exists for the adjacent buildings—with a sufficient vegetative buffer. The building then grows to three to four stories along Nebraska Avenue, which is similar to Constitution Hall. Campus life uses will be concentrated in this part of the building, furthest from the neighboring homes. On the corner of Nebraska Avenue and Rockwood Parkway, Building 11 is proposed to replace three low-slung bungalow-style buildings and the massing of Building 12 has been stepped down as it approaches the community and green space in front of proposed Building 11 has been expanded. (Ex. 13.)

174. With respect to transportation and parking, the Partnership stated it evaluated modality opportunities for walking, biking, shuttle service, and bus routes. This involved evaluating the amenities already available on campus, such as Capital Bikeshare stations, short-term bike racks, and locker rooms and showers. Potential traffic impacts were studied across a considerably expanded number and location of intersections compared to the 2011 Campus Plan. The Partnership is positioned to foster discussion of possible new parking under proposed buildings on East Campus (Building 15) and at the corner of Rockwood Parkway and Nebraska Avenue (Buildings 11 and 12) during the future further processing of these projects. (Ex. 13.)
175. The Partnership noted three opportunities for improved greenscaping, including the creation of a tree-lined pedestrian boulevard from Nebraska Avenue into the center of Main Campus; at the corner of Rockwood Parkway and Nebraska Avenue; and near the recently-completed Hall of Science building. The Partnership also worked with the University to rethink options for circulation through Main Campus. (Ex. 13.)
176. The Partnership statement provided a brief history of the American University Neighborhood Partnership, noting that the Partnership was originally devised during Z.C. Case No. 11-07F in 2016 (it was then called the “Neighborhood Collaborative.”) Extensive discussions between community leaders and the University changed the organization’s structure to make it more inclusive and transparent. Participation was expanded to neighbors beyond those immediately adjacent to campus and a process for new organizations to join was created. Formal “Terms of Reference” and informal “Ground Rules” were developed to be distributed throughout the community during recruitment of neighborhood participants. (Ex. 13.)
177. Six founding organizations jointly submitted the Partnership structure to the Commission in Z.C. Case No. 11-07G: ANC 3D and ANC 3E unanimously approved the creation of the Partnership, and they were joined by the Westover Place Homes Corporation, the Fort Gaines Citizens Association, Ward 3 Vision, and the Spring Valley Neighborhood Association. The Partnership states the SVWHCA and NLC were repeatedly urged to join, but they chose not to do so. The Partnership was fully launched in late 2018 and constructive meetings began almost immediately. Importantly, no one neighborhood has dominated the Partnership as was feared by some; instead, the various neighborhoods have worked together cooperatively as a “village” surrounding the University. (Ex. 13.)
178. The Partnership stated it is fully open to the public. Members from across the community have joined the working groups and organizations are able to nominate representatives to

the Steering Committee. The five working groups of the Partnership are designed to focus on specific University-related issues. Each working group is co-chaired by a member of the community and a senior official at the University. The Steering Committee, which has oversight over all five working groups and helps direct issues to the proper working group, is structured in the same manner. (Ex. 13.)

Spring Valley-Wesley Heights Citizens Association (“SVWHCA”)

179. In its Updated Request for Party Status dated March 8, 2021 (Ex. 26A.) and Statement of Testimony submitted to the record on March 20, 2021 (Ex. 79.), SVWHCA noted its objection to the 2021 Campus Plan, stating that it does not meet the standards for approval in Subtitle X § 101.2 of the Zoning Regulations.
180. SVWHCA noted specific concerns related to the growth of enrollment of both undergraduates and graduate students; the amount of proposed new on-campus student housing and the University’s off-campus master leasing program; the location of new on-campus student housing adjacent to residential neighborhoods; the sufficiency of information provided about transportation and parking, including new traffic circulation plans, TDM strategies, and on-campus parking; the need to maintain a minimum number of parking spaces on campus consistent with the University’s parking needs; the size and location of new buildings, including the new Center for Athletic Performance; and objectionable lighting conditions caused by proposed construction along the campus’ border with the Spring Valley neighborhood. (Ex. 26A, 79, 103.)
181. SVWHCA noted there is no condition in the 2021 Campus Plan which would prevent the University from building in excess of the 2021 Campus Plan’s target of approximately 500 new beds of on-campus housing. SVWHCA recommended adding a condition that the University will build no more than 500 additional beds for on-campus housing. (Ex. 79, 103.)
182. SVWHCA noted its concern that the proposed development on West Campus would create objectional conditions for the neighboring homes in Spring Valley. In particular, SVWHCA stated the location of potential new student dorm buildings on Sites 2 and 4 would create objectional noise and lighting impacts on neighboring residential homes. (Ex. 79, 103.)
183. SVWHCA recommended maintaining a minimum parking requirement instead of the 2021 Campus Plan’s ceiling of 3,000 parking spaces. According to SVWHCA, the lack of adequate on-campus parking would create excessive traffic in small commercial areas of the residential neighborhood. Moreover, SVWHCA recommended a more rigorous set of TDM measures to address the increase in traffic volumes during peak hours as shown both in the University’s 2021 CTR and in future traffic projections included in the 2021 Campus Plan. (Ex. 79, 103.)
184. SVWHCA proposed a number of conditions of approval for the 2021 Campus Plan, including maintaining the current cap of 13,600 students under the 2011 Campus Plan; imposing a sub-cap on the university’s undergraduate student enrollment; requiring that

off-campus leases not be permitted to count towards the University's compliance with 2021 Campus Plan; requiring the University to provide a minimum of 2,200 parking spaces on campus; and reducing plans or mitigating impacts of new construction planned for the West Campus adjacent to residential property, including possible relocation of the Center for Athletic Performance. (Ex. 26A, 79, 103.)

Neighbors for a Livable Community ("NLC")

185. In its Statement of Testimony submitted to the record on March 20, 2021 (Ex. 80.), NLC noted its objections to the 2021 Campus Plan, including the location and uses of buildings proposed for the West Campus area; the number of students, particularly the increase in undergraduate enrollment; neighborhood traffic impacts stemming in part from the reliance of off-campus parking facilities to meet the University's parking needs; the use of "off campus" housing to meet the University's requirement to house 67% of its residential students; the increase in density on the Main Campus lot; and, purposeful efforts to ignore the CLC as the official group/organization representing the communities surrounding the University.
186. In its Statement of Testimony, NLC generally supported the proposed conditions of approval, and made three specific recommendations regarding additional conditions. First, that a reporting system be developed, based on the special exception standards of Subtitle X § 901, that would include an accounting of how the University is meeting its self-prescribed conditions. Additionally, NLC recommended additional conditions stipulating that lighting be such as to limit impacts on neighboring property and that the University abide by all previous commitments to maintain and enhance landscaping in areas bordering residential neighborhoods. Finally, NLC sought the reinstatement of the CLC as the community group/organization guiding the implementation of the 2021 Campus Plan as a condition of approval. (Ex. 80.)

Jessica Herzstein and Elliot Gerson ("Herzstein/Gerson")

187. In their Prehearing Statement submitted to the record on March 16, 2021, Dr. Jessica Herzstein and Mr. Elliot Gerson, the owners of the property at 4710 Woodway Lane, N.W., noted their opposition to the 2021 Campus Plan based on their dissatisfaction with the University's use of Jacobs Field, specifically the noise generated by University activities and special events held at the field, which they deem to be objectionable. Herzstein/Gerson stated that they cannot enjoy their residential property during the many loud and lengthy events on the field. (Ex. 69.)
188. Herzstein/Gerson objected to the University's continued use of Jacobs Field for "special events" that have no connection to the University's students or academic mission. Dr. Herzstein and Mr. Gerson maintain that such usage is inconsistent with the language and meaning of Z.C. Order No. 11-07 and that the next campus plan (i.e., the 2021 Campus Plan) should clarify the limits of such usage. (Ex. 69.)

189. Herzstein/Gerson requested that the University design an acoustic wall in collaboration with their sound engineers, and install the acoustic wall at the current fence line as opposed to at the property line. Dr. Herzstein and Mr. Gerson stated that:

“Such a wall, if designed properly to address certain specific sources of noise and defined mitigation objectives, could reduce some noise from Jacobs Field, but it will not solve all of the noise problems associated with Jacobs Field due to terrain, topography, and the science of noise transmission. For this reason, additional mitigating measures and firm and enforceable restrictions will be necessary before and after construction of a sound barrier.”

Until the wall is actually built and tested by sound engineers, Herzstein/Gerson requested that 15 additional conditions be placed upon the University with respect to usage of Jacobs Field. (Ex. 69.)

190. Herzstein/Gerson also objected to the University’s request to include a filming tower as part of the 2021 Campus Plan, noting that the filming tower is objectionable due to it being an elevated, permanent structure and its location adjacent to their property at 4710 Woodway Lane, N.W. (Ex. 69.)
191. At its May 27, 2021 public meeting, the Commission directed the University to consider the conditions proposed by Herzstein/Gerson and resolve any disagreements concerning the acoustic wall and use of Jacobs Field. (Tr. from May 27, 2021 meeting at p. 79; Ex. 163.) In a supplemental post-hearing submission dated June 17, 2021, the University stated that it had reached an agreement with Herzstein/Gerson on all conditions related to the use of Jacobs Field, which were attached to the submission as Exhibit A. (Ex. 165.) In response, Herzstein/Gerson submitted a post-hearing submission dated June 24, 2021 confirming their support for the updated proposed conditions contained in the University’s supplemental post-hearing submission at Exhibit 165. (Ex. 169.)

Westover Place Homes Corporation (“WPHC”)

192. In their Updated Request for Party Status submitted on March 6, 2021 (Ex. 29A.), Westover Place Homes Corporation set forth its opposition to the 2021 Campus Plan, expressing concerns related the proposed building and parking at Site 15; the buffer along the wall between the University and Westover Place particularly adjacent to Site 15; potential damage to Westover Place property during construction; and undergraduate enrollment.
193. WPHC requested that the proposed building at Site 15 be reduced in size and situated further from Westover Place than is currently proposed and be designated for academic/administrative purposes, without a campus life component; that all new uses of East Campus be limited to academic and administrative purposes only; that the buffer along the wall between the University and Westover Place be significantly increased in size and the current green buffer be enhanced and maintained; and that remediation be provided for

any damage that may occur to Westover Place properties during and after construction. (Ex. 29A.)

194. WPHC also noted that they support a cap on undergraduate enrollment. (Ex. 29A.)

Concerned Neighbors at Corner of Nebraska Avenue, N.W. and Rockwood Parkway, N.W. (“Concerned Neighbors”)

195. In its Request for Party Status dated March 8, 2021, Concerned Neighbors noted their opposition to the 2021 Campus Plan, expressing concerns about the proposed size and height of the buildings at Sites 11 and 12 and the sequencing of their development; the proposed underground parking and campus life components of the facilities, specifically concerns that those components may include commercial or retail activities; the possibility of encountering World War I-era site contamination during the demolition of existing structures on Sites 11 and 12; and the possibility of damage to their properties caused by construction activities. (Ex. 36.)

196. Concerned Neighbors also noted that they question some of the data provided in the University’s Comprehensive Transportation Review. (Ex. 36.)

Persons in Support

197. In addition to the approximately 80 individual statements of support that were included in the Applicant’s March 1, 2020 pre-hearing statement (Ex. 22B.), several letters of support were submitted to the record by members of the community, including individual residents, ANC 3D Commissioners, businesses, University students, and neighborhood organizations. These statements reflected many of the perspectives and comments raised by ANC 3D, ANC 3E, and the AU Neighborhood Partnership (FOFs 115-178 above), noting, for example, the 2021 Campus Plan’s balanced approach to meeting University needs and addressing community interests; a commitment to effective Transportation Demand Management strategies; and the positive role AU plays as a key contributor to the neighborhood. (Ex. 15, 20-21, 25, 50-55, 76, 81, 92-97, 106, 110, 127.).

Persons in Opposition

198. Several individuals, including many residents of Westover Place, submitted statements in opposition to the 2021 Campus Plan. These submissions reflected many of the positions and concerns raised by the Parties in Opposition in this case (FOFs 179-196 above), including the proposed size of Building 15; noise, light pollution, trash, and traffic impacts; student enrollment; the scaling and setback for proposed development at Sites 11 and 12. Many of the comments in opposition urged the University to restrict Building 15 to academic and office uses only and not build an underground parking garage beneath Building 15. (Ex. 14, 30, 34-35, 37-41, 43-48, 57-68, 70-71, 74-75, 84-86, 90, 98, 104, 112, 115, 129.)

Applicant’s Pre-Hearing Submission

199. On March 1, 2021, the Applicant submitted its pre-hearing statement (the “Pre-Hearing Submission”) (Ex. 22, 22A-22F.) which included (1) responses to community comments received throughout the planning process; (2) statements of support from students, alumni,

and members of the surrounding community; (3) a report evidencing the University's compliance with the conditions of approval from the 2011 Campus Plan; (4) additional information to supplement the Applicant's statement with respect to historic preservation concerns including a new historic resources graphic; (5) additional information regarding the proposed acoustical sound barrier wall at Jacobs Field; (6) additional conditions proposed by DDOT and agreed to by the University; (7) a list of witnesses testifying on behalf of the Applicant and outlines of their proposed testimony; and (8) the resume of Matthew Bell, FAIA of Perkins Eastman.

200. The Applicant reported that the American University 2021 Campus Plan website was launched in March 2020 to provide a wide range of information and materials regarding the 2021 Campus Plan, including an online community input portal for neighbors and interested community stakeholders to submit questions or feedback about the 2021 Campus Plan. Responses to more than 150 questions submitted through the portal (or posed at public meetings) were posted on the website for public review to allow all community stakeholders the benefit of seeing responses to issues raised by their neighbors; these questions and responses were compiled into the Community Input Portal Report attached as Exhibit A to the Pre-Hearing Submission. (Ex. 22A.)
201. In addition to the resolutions in support of 2021 Campus Plan from ANC 3D (Ex. 10.), ANC 3E (Ex. 6.), and testimony in support from the AU Neighborhood Partnership (Ex. 13.), the University received approximately 80 statements of support from alumni, students, and members of the surrounding community, which were attached as Exhibit B to the Pre-Hearing Submission. (Ex. 22B.)
202. The Applicant reported that the Applicant and representatives of the Office of Planning, the Historic Preservation Office, and the Department of Transportation had a meeting on February 9, 2021 regarding the Application. In addition, the Applicant and representatives of the Department of Energy & Environment met on February 16, 2021. (Ex. 22.)
203. In response to issues that were raised at the meeting with the Office of Planning, the Applicant submitted a report attached as Exhibit C to the Pre-Hearing Submission evidencing AU's compliance with the conditions of approval from the 2011 AU Campus Plan (Z.C. Order No. 11-07, and as modified with regard to Condition No. 5 in Z.C. Order No. 11-07F, and with regard to Condition No. 14 in Z.C. Order No. 11-07H). (Ex. 22C.)
204. In response to issues that were raised at the meeting and in subsequent discussions with the Historic Preservation Office, the Applicant submitted supplemental information attached as Exhibit D to the Pre-Hearing Statement to address how historic preservation issues are addressed in the 2021 Campus Plan. (Ex. 22D.)
205. The Applicant noted that throughout the campus planning process, the University gave careful and thoughtful consideration to campus historic resources, as reflected in its approach to various 2021 Campus Plan elements. For example, potential development around the Friedheim Quadrangle has been appropriately sited and scaled to respect the prominence of the historically significant campus open space. Development of Site 9 in

particular was carefully considered in light of the context of adjacent Hurst Hall and East Quad Building, as the proposed development is aimed at addressing accessibility and programmatic challenges associated with the existing structures, while maintaining their unique architectural integrity. (Ex. 3, 3E, 22D.)

206. Proposed landscape and open spaces have similarly been influenced by historical planning considerations. For example, the concept of reinforcing a landscaped, pedestrian-oriented east-west connection through campus from Nebraska Avenue, N.W. to Reeves Field was influenced by the prominent east-west open space contemplated by early plans for the American University campus conceived by Olmsted and further developed by Henry Ives Cobb. (Ex. 22D.)
207. The Applicant stated that it will continue its active stewardship of the built campus environment, including working with key stakeholders in connection with future development projects that impact key historic resources (e.g., Site 9) as part of the further processing approval process. (Ex. 22D.)
208. The Applicant stated its submission of the February 4, 2021 Comprehensive Transportation Review including Addendum 2 (Ex. 18A.) addressed all questions and comments that had been raised by DDOT representatives. In its responses to DDOT's comments, the Applicant agreed to a condition of approval of the 2021 Campus Plan that the Applicant will pay all costs associated with the installation of a new 19-dock Capital Bikeshare station and will coordinate with DDOT on its ultimate location, which was expected to be at the southern end of the Main Campus in accordance with DDOT's input. (Ex. 22.)
209. The University indicated that the following witnesses would present testimony on behalf of the Applicant: Sylvia M. Burwell, President of American University; Edward Fisher J.D., Assistant Vice President, Community and Government Relations at American University; Matthew Bell FAIA, Principal at Perkins Eastman; and Iain J. Banks PTP, Principal at Nelson\Nygaard. (Ex. 22.)
210. Outlines of the witness testimony were also provided in the submission, as well as the resume of Matthew Bell, FAIA, who has been admitted as an expert in urban planning and architecture in numerous cases before the Commission. (Ex. 22E, 22F.)

Applicant's Response to DDOT Request for Supplemental Information

211. On March 23, 2021, the Applicant submitted its Response to DDOT Request for Supplemental Information (Ex. 99.) that included information responsive to comments raised in DDOT's March 12, 2021 report (Ex. 49.) and addressed in follow-up discussions between the Applicant and DDOT, and which was noted in the Applicant's testimony at the March 22, 2021 public hearing (Tr. from March 22, 2021 hearing at p. 48.) as well as in DDOT's testimony at the March 29, 2021 public hearing. (Tr. from March 29, 2021 hearing at p. 32.)
212. The Response to DDOT Request for Supplemental Information provided a "clean document clearly stating the TDM and performance monitoring plans" that were addressed

in the Applicant's 2021 Campus Plan submission (Ex. 3.) and CTR (Ex. 18A.) as specifically requested by DDOT in its March 12, 2021 report. (Ex. 99.)

213. With respect to its TDM efforts, the Applicant noted that, as indicated in the CTR (Ex. 18A.), the University would focus on building on the success of its existing TDM Plan, including maintaining and expanding current programs, and working with DDOT and members of the community, particularly the AU Neighborhood Partnership Transportation and Parking Working Group, to explore emerging best practices and monitor the TDM Plan's performance and effectiveness. (Ex. 99.)
214. The University also detailed its Performance Monitoring Plan that was incorporated in the proposed conditions included in the 2021 Campus Plan submission (Ex. 3.), and which will guide the implementation, monitoring, and enforcement of the objectives and commitments set forth in the 2021 Campus Plan and embodied in the University's TDM Plan. (Ex. 99.) At the request of DDOT, the Performance Monitoring Plan was updated to align with the District's and DDOT's transportation goals. (Ex. 99; Tr. from March 22, 2021 hearing at p. 48.)
215. In addition, the University also included an additional proposed condition in response to DDOT's comments on the CTR (Ex. 18A.), agreeing to pay all costs associated with the installation of a new 19-dock Capital Bikeshare station and to coordinate with DDOT on its ultimate location, and to fund and install at least one (1) four-dock expansion plate to each of the two existing Capital Bikeshare stations on Nebraska Avenue and Massachusetts Avenue, N.W., subject to DDOT approval. (Ex. 99.)
216. In his testimony at the March 29, 2021 public hearing, DDOT representative Ted Van Houten confirmed that "DDOT supports AU's Transportation Demand Management and Performance Monitoring Plan which is included in the record as Exhibit 99." (Tr. from March 29, 2021 hearing at p. 32.)

Public Hearing of March 22, 2021

217. The Commission held a public hearing on the Application pursuant to notice and convened via videoconference at 4:00 p.m. on March 22, 2021. (Tr. from March 22, 2021 hearing at p. 1.)
218. As previously noted, at the March 22, 2021 public hearing, the Commission granted AU Neighborhood Partnership party status in support; and granted the following organizations party status in opposition: SVWHCA, NLC, WPHC, Herzstein/Gerson, and Concerned Neighbors. (FOFs 5-10.)

Applicant's Testimony

219. The Applicant presented the testimony of Sylvia M. Burwell, President of American University; Ed Fisher, Assistant Vice President of Community and Government Relations at American University; Matthew Bell FAIA, Principal at Perkins Eastman (the University's planning consultant); and Iain J. Banks PTP, Principal at Nelson\Nygaard (the University's transportation consultant). Mr. Bell was accepted by the Commission as an

expert in architecture and urban planning, and Mr. Banks was accepted by the Commission as an expert in transportation engineering. (Tr. from March 22, 2021 hearing at p. 7.)

220. President Burwell discussed AU's global profile—featuring students from all 50 states and more than 100 countries—as well as its commitment to the D.C. community, including the University's work to engage effectively with its neighbors of a wide range of issues, partnerships, and planning endeavors, including the 2021 Campus Plan. (Tr. from March 22, 2021 hearing at pp. 25-26.)
221. President Burwell noted that the 2021 Campus Plan is an integral component in the implementation of the University's strategic plan, *Changemakers for a Changing World* and described how the University had purposefully aligned its strategy, branding, development campaign, and the 2021 Campus Plan. (Tr. from March 22, 2021 hearing at pp. 27-28.)
222. Given the rapidly changing landscape and increasingly competitive marketplace of higher education, President Burwell explained that the University must remain flexible and be innovative to respond to the changing needs of students; at the same time, the University understands “the impacts that new campus development, student enrollment and transportation capacity can have if not effectively managed on the residential neighborhoods that surround the AU campus.” (Tr. from March 22, 2021 hearing at p. 28.)
223. President Burwell noted that in the midst of the 2021 Campus Plan effort, the global COVID-19 pandemic presented unprecedented challenges to the nation, across the world, and within the AU community. Nonetheless, work on the 2021 Campus Plan actively continued through the pandemic. As a result of this focused effort, the University along with its dedicated neighborhood partners, thoughtfully and effectively advanced the strategic planning collaboration that resulted in the consensus on the 2021 Campus Plan. (Tr. from March 22, 2021 hearing at p. 29.)
224. Ed Fisher testified regarding the key role of the AU Neighborhood Partnership, which was modeled after the Georgetown University Community Partnership, in the development of the 2021 Campus Plan. Mr. Fisher also testified that the University actively engaged with and provided regular updates to the CLC as well as neighborhood residents and other community stakeholder groups throughout the process of developing its 2021 Campus Plan. (Tr. from March 22, 2021 hearing at pp. 31-35.)
225. Matt Bell testified regarding the 15 proposed development sites that were included in the 2021 Campus Plan, noting the updates that were made during the planning process in response to community input and feedback and that the “result is a comprehensive and balanced development approach that reinforces the unique campus scale of AU, with heights and densities that correspond to the surrounding built environment, and setbacks, buffers, and design considerations that effectively mitigate potential adverse impacts and respect neighboring residential properties.” As a result of community feedback, Mr. Bell testified that the location, height, and massing of many proposed development sites, including Building 15, were modified to maintain substantial distances and appropriate

buffers from neighboring residential properties. In response to cross-examination from a representative of WPHC, Mr. Bell stated that Building 15 would have a minimally 65-foot setback from the property line neighboring the Westover Place community. Mr. Bell testified that this setback, together with the stepdown in building height from four stories to two stories on the side of Building 15 facing Westover Place provide sufficient mitigation for any adverse effects of the proposed development at Site 15. (Tr. from March 22, 2021 hearing at pp. 35-40, 157-159.)

226. Mr. Bell also described proposed improvements to campus landscape and open spaces focused on strengthening pedestrian circulation, particularly opportunities that re-enforce east-west connections through the Main Campus, improve conditions in and around buildings on the west side of the campus, and enhance the campus streetscape—for example, in connection with the proposed development of Sites 11 and 12 along Nebraska Avenue. (Tr. from March 22, 2021 hearing at p. 41.)
227. Mr. Bell addressed the University’s active stewardship of the built campus environment and attention to important campus architectural resources, confirming the Applicant’s commitment to working with D.C. Historic Preservation staff and key stakeholders in connection with future development projects that impact historic resources. (Tr. from March 22, 2021 hearing at pp. 42-43.)
228. Mr. Bell also outlined the Applicant’s efforts to establish a culture of sustainability throughout all facets of the university experience, which include the development of a green-building policy that commits to achieving a minimum of LEED Gold certification for all new construction projects. Since 2011, 11 AU buildings have achieved LEED-certified status. (Tr. from March 22, 2021 hearing at pp. 43-44.)
229. Iain Banks testified about the process for developing the Comprehensive Transportation Review in support of the 2021 Campus Plan. The CTR consists of the multi-modal evaluation and assessment of current and future transportation operations with a focus on high-quality site design, transit accessibility, and effective Transportation Demand Management planning. (Tr. from March 22, 2021 hearing at p. 45.)
230. With respect to campus parking, Mr. Banks testified that the 2021 Campus Plan proposes a parking ceiling of 3,000 spaces for University use over the term of the Plan, inclusive of all five Campus Plan properties. This inventory would provide the capacity to meet the needs of future campus populations, including any special events. Below-grade parking at Sites 11/12 and Site 15 would be evaluated at the time AU moves forward with a further processing application for the sites. Additional transportation analysis would be reviewed with members of the community as part of the review and assessment process. (Tr. from March 22, 2021 hearing at pp. 46-47.)
231. Mr. Banks outlined the University’s comprehensive TDM Plan, including its robust shuttle service program; AU/Wmata U-PASS® Program; on-demand corporate ride service; enhanced telework and distance learning options; and improvements to bicycle infrastructure. The University will also continue to maintain and enhance the *Good*

Neighbor Parking Policy, which effectively deters AU-related parking on neighborhood streets. (Tr. from March 22, 2021 hearing at pp. 47-48.)

232. Mr. Banks noted that in response to comments raised in DDOT's March 12, 2021 report and follow up discussions between AU and DDOT, the University prepared a document that complied its TDM program initiatives and performance monitoring plans set forth in the CTR, and aligned AU's transportation goals with goals set forth in moveDC and the District's Comprehensive Plan. (Tr. from March 22, 2021 hearing at p. 48.)
233. Mr. Banks testified that the complete CTR was provided to DDOT and members of the community in September 2020, in advance of the filing of the 2021 Campus Plan. As detailed in the CTR, Mr. Banks testified that the proposed 2021 Campus Plan development is not likely to have a detrimental impact on the surrounding transportation network. (Tr. from March 22, 2021 hearing at p. 49.)
234. Mr. Banks stated that the CTR includes 11 recommendations that will continue to enable AU to effectively minimize its impact and support the transportation network surrounding the University, focusing on the implementation of its TDM program to reduce single-occupancy vehicle trips to campus, and continuing to work with neighborhood stakeholders to address transportation and parking related issues of the term of the Plan. Specifically in response to community concerns and input from DDOT, AU has agreed to fund a new 19-dock Capital Bikeshare station and expand the two existing Bikeshare stations near Campus. (Tr. from March 22, 2021 hearing at p. 49.)
235. Mr. Fisher resumed his testimony and discussed the impact of the 2016 Zoning Regulations on how universities must count students. Specifically for AU, the new regulations expand the scope of students that must be counted, which results in three additional campus locations being included. As a result of these changes, the University proposed an adjusted student enrollment cap of 14,380 for all Campus Plan properties. The University has also proposed to retain the 2,000-student cap at the Tenley Campus established in the 2011 Campus Plan, with the flexibility to allow AU students in programs other than the Washington College of Law to take courses at the Tenley Campus. Mr. Fisher further testified that the University chose not to provide any specific projections for student growth in the 2021 Campus Plan because it learned from experiences with prior campus plans that such projections are not a best practice, and the 2021 Campus Plan should instead focus on managing the impacts of students. (Tr. from March 22, 2021 hearing at pp. 49-51, 113.)
236. Mr. Fisher noted that the 2021 Campus Plan calls for reinvigorating and renovating the Mary Graydon Center as a campus hub of student activity, and to provide campus life uses on the ground floor of new buildings, where appropriate, to encourage students to spend more time on campus. (Tr. from March 22, 2021 hearing at p. 52.)
237. Mr. Fisher discussed the need for additional athletic facilities to support AU's intercollegiate and club and recreational athletic programs, including the Center for Athletic Performance, a new video scoreboard at Reeves Field, a new filming tower at

Jacobs Field, and turfing field surfaces at Reeves Field and 45th Street Field. (Tr. from March 22, 2021 hearing at p. 52.)

238. Mr. Fisher outlined the University's proposal for a new acoustical sound barrier wall at Jacobs Field. Since the approval of the 2011 Campus Plan, Mr. Fisher stated the University has been in regular contact with Dr. Jessica Herzstein and Mr. Elliot Gerson whose home shares a boundary with the field. Mr. Fisher testified that AU has maintained compliance with the conditions of Z.C. Order No. 11-07 regarding the use of Jacobs Field, including providing Dr. Herzstein and Mr. Gerson with event schedules and contact information, and installing a new sound system in 2012 aimed at mitigating the impacts from amplified sound at Jacobs Field. (Tr. from March 22, 2021 hearing at pp. 52-53.)
239. Mr. Fisher testified that senior leadership at AU has continued to meet with Dr. Herzstein and Mr. Gerson on multiple occasions to discuss the issues surrounding Jacobs Field; however, despite the willingness of AU to move forward with the design and construction of a sound barrier wall, Mr. Fisher claimed the parties could not come to agreement as it relates to the conditions and future use of Jacobs Field once the sound barrier wall is built. (Tr. from March 22, 2021 hearing at pp. 53-54.)
240. Mr. Fisher testified that, as detailed in the 2021 Campus Plan, AU will work with members of the community, including Dr. Herzstein and Mr. Gerson, and other residents in the vicinity of Jacobs Field, to further evaluate the details of specific impacts, the scope of permitted uses of the field, and any potential alternative mitigation measures during the further processing review process. (Tr. from March 22, 2021 hearing at pp. 54-55.)
241. With respect to student housing, Mr. Fisher testified that it is AU's goal to have more students living on campus over the term of the 2021 Campus Plan. Assuming 200 off-campus master leased beds continue to be counted toward the requirement that 67% of full-time undergraduate students be housed on campus, the University proposes to add 500 on-campus beds over the term of the Plan. In addition, the University will continue to maintain a supply of housing for 67% of full-time undergraduate students. (Tr. from March 22, 2021 hearing at p. 55.)
242. Mr. Fisher testified that AU believes it is critically important for its students to have good relationships with the neighbors in the surrounding communities. The Student Life and Safety Working Group met numerous times to develop policies and practices to educate and inform students who live off-campus about expectations, responsibilities, and duties. To better inform AU students who choose to live off-campus about their rights and responsibilities, AU will implement an improved off-campus living orientation program. (Tr. from March 22, 2021 hearing at pp. 56-57.)
243. Mr. Fisher stated that AU proposed 18 conditions of approval to guide the implementation of the 2021 Campus Plan. In addition, AU agreed to undertake the actions in support of the preservation of historic resources outlined in the OP report (Ex. 56.) and also agreed to adopt OP's recommendation against the use of any additional off-campus master leased beds, besides the 200 beds at The Frequency Apartments at 4000 Brandywine Street, N.W.,

to meet the undergraduate student housing requirement. (Tr. from March 22, 2021 hearing at p. 58.)

244. Mr. Fisher concluded his testimony by underscoring the University's commitment to continued transparency and information sharing and collaborative implementation of the 2021 Campus Plan, specifically including working together with community stakeholders through the AU Neighborhood Partnership. (Tr. from March 22, 2021 hearing at pp. 58-59.)

Cross-Examination of the Applicant's Testimony by Parties

245. ANC 3D, ANC 3E, and the AU Neighborhood Partnership did not cross-examine the Applicant regarding its testimony. However, the Parties in Support were represented as follows during cross-examination: Commissioner Chuck Elkins on behalf of ANC 3D; Commissioner Jonathan McHugh on behalf of ANC 3E; and Mr. Troy Kravitz on behalf of the AU Neighborhood Partnership.
246. The Parties in Opposition were represented as follows during cross-examination of the Applicant's testimony: Mr. Tom Smith on behalf of SVWHCA; Ms. Alma Gates on behalf of NLC; Mr. Laird Fitzpatrick on behalf of WPHC; Ms. Laurie Horvitz, Esq. on behalf of Herzstein/Gerson; and Ms. Natalie Ambrose on behalf of Concerned Neighbors (collectively, the "Party in Opposition representatives.")
247. The Party in Opposition representatives raised various questions and concerns noting the following issues during cross-examination of the University's testimony: the 2021 Campus Plan's proposed increase of the student enrollment cap and how the University will ensure that enrollment growth, particularly undergraduate student growth, remains steady over the course the 2021 Campus Plan; the requirement to house 67% of undergraduate full-time students on campus and how the 2021 Campus Plan's proposed 500 new on-campus beds and the existing 200 master leased beds at The Frequency Apartments would adequately meet the housing requirement over the course of the 2021 Campus Plan; the 2021 Campus Plan's proposed parking inventory ceiling of a maximum of 3,000 parking spaces for university use and whether that number of spaces was overly aggressive based on current parking space use; the University's CTR and the accuracy of some of its findings regarding traffic volume in the immediate area; the 2021 Campus Plan's proposed buildings for certain sites and proposed student life uses in certain of those buildings, and how the respective building heights, lighting, parking, and setback/buffering/landscaping design would mitigate any potential objectionable impacts to neighboring properties; and the 2021 Campus Plan's proposed construction of an acoustic sound barrier wall between Jacobs Field and Herzstein/Gerson's property, the planned placement of the wall in relation to the topography of the field, and how the conditions associated with construction of the wall and uses at the field should adequately mitigate objectionable impacts to neighboring properties. (Tr. from March 22, 2021 hearing at pp. 104-209.)
248. The University responded to the cross-examination questions and concerns by reiterating much of its testimony and assuring the Party in Opposition representatives that the proposed conditions of approval to the 2021 Campus Plan address the objectionable

impacts associated with the 2021 Campus Plan. The University also noted that many of their concerns about potential objectionable impacts would be directly addressed in future further processing applications. (Tr. from March 22, 2021 hearing at pp. 104-209.)

Public Hearing of March 29, 2021

249. The Commission held a continued public hearing on the Application pursuant to notice and convened via Videoconference at 4:00 p.m. on March 29, 2021. (Tr. from March 29, 2021 hearing at p. 1.)
250. Iain Banks was made available for cross-examination with respect to the Applicant's Response to DDOT Request for Supplemental Information. (Ex. 99.) The submission provided a compilation of the University's TDM program initiatives and performance monitoring plans set forth in the CTR and was entered into the record on March 23, 2021. (Tr. from March 29, 2021 hearing at pp. 10-27.)
251. SVWHCA, NLC, and Concerned Neighbors raised questions and concerns on cross-examination of Mr. Banks regarding the adequacy of the University's TDM plan. On behalf of SVWHCA, Mr. Smith noted that comparing the 2011 CTR data to the current 2021 CTR reflects a 25.1% increase in traffic volume in the a.m. (morning) peak hour (8:15 a.m. to 9:15 a.m.) and an 11.5% increase in traffic volume in the p.m. (evening) peak hour (5:00 p.m. to 6:00 p.m.) and questioned whether such an increase over a 10-year period warrants a more aggressive TDM strategy from the University. Mr. Smith also questioned how the TDM strategy encourages rideshare programs like Uber and Lyft to pick-up and drop-off on campus instead of on Massachusetts or Nebraska Avenues. On behalf of NLC and Concerned Neighbors, Ms. Gates and Ms. Ambrose, respectively, raised questions about the frequency of University shuttle services, the frequency of buses to campus for sporting events, issues with shuttle bus pick-up and drop-off along Massachusetts and Nebraska Avenues, and the University's enforcement of the *Good Neighbor Parking Policy* prohibiting University students and employees from parking in the surrounding neighborhood. (Tr. from March 29, 2021 hearing at pp. 18-27.)
252. In response, Mr. Banks described the University's TDM program as an important measure in restricting vehicle trips to campus and encouraging alternative modes of transportation, such as the University's shuttle service and the AU/WMATA U-PASS® Program. Mr. Banks testified that the University has begun transitioning from a monthly parking permit program for students, faculty, and staff to a "Virtual Self-Park" program whereby parking is charged on a per diem basis, which encourages users to consider alternative modes of transportation before every trip. Mr. Banks also testified that the University continues to work with TNCs to ensure that designated pick-up locations on campus are being utilized to reduce congestion along Massachusetts and Nebraska Avenues. Mr. Banks acknowledged the University currently has no meaningful way of restricting drop-off locations, but stated that it continues to work with TNCs and DDOT on formulating solutions to that problem. (Tr. from March 29, 2021 hearing at pp. 13-19.)
253. In direct response to Mr. Smith of SVWHCA's question about the CTR's traffic volume increase during a.m. and p.m. peak hours over the past 10 years, Mr. Banks stated that the

University's TDM strategy does not need to be more aggressive. Mr. Banks explained that despite the increase in parking volume from 2011 to present, 85% of the student population has a non-vehicular commute to campus, so only 15% of students drive to campus. Mr. Banks cited this metric as a key indication of the University's TDM program's success.⁶ (Tr. from March 29, 2021 hearing at p. 23.)

Office of Planning and DDOT Testimony

254. As discussed in FOF 106 above, OP representative Maxine Brown-Roberts testified to confirm OP's support for the 2021 Campus Plan and recommended its approval subject to the conditions outlined in OP's report at Exhibit 56. (Tr. from March 29, 2021 hearing at pp. 28-31.)
255. Ms. Brown-Roberts testified that the 2021 Campus Plan mitigated any negative impacts from the proposed development of new buildings on campus by providing adequate setbacks and buffering against adjacent residential neighborhoods. (Tr. from March 29, 2021 hearing at pp. 44-45.)
256. As discussed in FOFs 112-113 above, DDOT representative Ted Van Houten testified that DDOT reviewed the University's 2021 Campus Plan and is supportive of the proposal, and specifically concurred with the Applicant's proposal to change from a parking minimum to a parking maximum of 3,000 spaces for all campus sites. (Tr. from March 29, 2021 hearing at p. 32.)
257. Mr. Van Houten further testified that DDOT supports the Applicant's Transportation Demand Management and Performance Monitoring Plan which is included in the record at Exhibit 99. (Tr. from March 29, 2021 hearing at p. 32.)

Cross-Examination of OP and DDOT Testimony by Parties

258. ANC 3D and the AU Neighborhood Partnership did not cross-examine OP or DDOT.
259. On behalf of ANC 3E, Commissioner McHugh asked OP to elaborate on its rationale for recommending that the further processing application for construction of the acoustic sound barrier wall at Jacobs Field be prioritized before any other further processing applications. (Tr. from March 29, 2021 hearing at p. 34.)
260. Ms. Brown-Roberts of OP explained that mitigating the ongoing noise associated with Jacobs Field was something that should be addressed expeditiously. (Tr. from March 29, 2021 hearing at pp. 34-35.)

⁶ The Commission was not satisfied with Mr. Banks' response regarding the CTR's demonstrated increase in traffic volume and requested that Mr. Banks think about his answer and further supplement his answer at the next proceeding. The Applicant submitted further information regarding its TDM program in response to the Commission's request in the forms of a narrative compilation of the University's proposed TDM measures at Exhibit 141 and an explanation for why the Applicant does not believe a more aggressive TDM program is required at Exhibit 165.

261. In addition, Commissioner McHugh questioned DDOT (as a follow-up to the questions posed by Ms. Gates of NLC in FOF 265 below) regarding DDOT’s poor level of service rating for the Ward Circle intersection and whether the rating was attributable to safety-related issues. Commissioner McHugh also asked DDOT whether it would consider any alternatives to address the pick-up and drop-off issues along Massachusetts and Nebraska Avenues. (Tr. from March 29, 2021 hearing at pp. 99-100.)
262. Mr. Van Houten of DDOT explained that the level of service of an intersection is primarily a measure of delay and unrelated to safety. Mr. Van Houten also explained that DDOT would not consider additional curb cuts to address the pick-up and drop-off issues and agreed with the idea of a designated location for pick-up and drop-off on campus. (Tr. from March 29, 2021 hearing at pp. 99-100.)
263. On behalf of SVWHCA, Mr. Smith raised the following questions and concerns on cross-examination of OP:
- Whether the requirements for on-campus housing requirements (100% of full-time freshmen and sophomores and 67% of full-time undergraduates) were University goals or conditions of approval of the 2021 Campus Plan; (Tr. from March 29, 2021 hearing at pp. 37-38.)
 - Whether an enrollment cap specific to undergraduate students was an appropriate condition of approval of the 2021 Campus Plan to address potential objectional conditions associated with undergraduate population; (Tr. From March 29, 2021 hearing at pp. 40-41.)
 - The adequacy of the 2021 Campus Plan’s proposed setback and buffering/landscaping between the proposed buildings and neighboring properties on the West Campus boundary along University Avenue and the East Campus boundary; (Tr. from March 29, 2021 hearing at pp. 41-44.) and
 - Whether the information the University has provided regarding the buildings proposed in the 2021 Campus Plan meets the requirements of Subtitle X § 101.8, which requires that: “the applicant shall have submitted to the Commission for its approval a plan for developing the campus as a whole, showing the location, height, and bulk, where appropriate, of all present and proposed improvements including, but not limited to, the following: (a) Buildings and parking and loading facilities; (b) Screening, signs, streets, and public utility facilities; (c) Athletic and other recreational facilities; and (d) A description of all activities conducted or to be conducted on the campus, and of the capacity of all present and proposed campus development.”⁷ (Tr. From March 29, 2021 hearing at pp. 47-48.)

⁷ The University responded to Mr. Smith’s assertion that the 2021 Campus Plan does not comply with the requirements of Subtitle X § 101.8 by referencing the Applicant’s Statement at Exhibit 3D of the case record (page 1 titled “Exhibit L Development Program Summary.”) The University noted that the referenced Exhibit L

264. Mr. Smith raised the following questions and concerns on cross-examination of DDOT: the potential objectionable impacts associated with continuing to allow loading for the Katzen Center directly on Massachusetts Avenue even though there is a loading dock in the rear of the building at Ward Circle, and the curb-side pick-ups and drop-offs along Massachusetts and Nebraska Avenues. (Tr. from March 29, 2021 hearing at pp. 53-55.)
265. On behalf of NLC, Ms. Gates continued cross-examination of DDOT, raising the following questions and concerns: DDOT's poor level of service rating for the Ward Circle intersection and how the University might impact the existing conditions at the intersection; and whether DDOT would support any new curb cuts for access to Main Campus. (Tr. from March 29, 2021 hearing at pp. 58-61.)
266. In response to the various questions raised, Mr. Van Houten from DDOT acknowledged that DDOT was aware of the loading situation for the Katzen Center but understood it was for a limited time period. Mr. Van Houten explained that the impacts associated with the 2021 Campus Plan do not cause any unacceptable decline in the level of service at existing intersections or result in an unacceptable change in conditions at Ward Circle requiring mitigation in terms of moving from one level of service category to another. Finally, as noted in FOF 262 above, Mr. Van Houten stated that DDOT would not support additional curb cuts as a measure to address pick-up and drop-off issues along Massachusetts and Nebraska Avenues. (Tr. from March 29, 2021 hearing at pp. 53-60.)
267. Ms. Gates then cross-examined OP, reiterating the previously raised concerns about the adequacy of the buffer/landscaping along the Campus boundary and questioning whether the Department of Energy & Environment would file a report in this case to comment on the 2021 Campus Plan's proposed buffer. (Tr. from March 29, 2021 hearing at pp. 63-65.)
268. On behalf of WPHC, Mr. Kirkpatrick raised questions and concerns on cross-examination of OP regarding the adequacy of the 2021 Campus Plan's setback and buffering/landscaping along the eastern campus boundary, specifically whether the 65 to 85 foot setback proposed for Building 15 was sufficient to preserve natural light for neighboring residents; and whether the upward slant in the elevation of the Building 15 site was considered in the analysis of the proposed building height and any analysis of the provision of underground parking on the site.⁸ (Tr. from March 29, 2021 hearing at pp. 67-71.) Mr. Kirkpatrick did not cross-examine DDOT.
269. On behalf of Herzstein/Gerson, Ms. Horvitz, Esq. raised questions and concerns on cross-examination of OP regarding the sources of objectionable noise impacts from the University's use of Jacobs Field and whether the 2021 Campus Plan's conditions of approval should expressly monitor the uses at Jacobs Field and include minimum

includes a development program summary with the building height, number of stories, and GFA of all proposed buildings in the 2021 Campus Plan.

⁸ The Commission interjected during Mr. Kirkpatrick's cross-examination to reiterate its request that the Applicant supplement the case record with a visual depiction (in addition to the building stories chart already provided) to show the height of the proposed buildings in the 2021 Campus Plan in context with the existing buildings on campus. The Applicant provided a visual depiction in its Post-Hearing Submission at Exhibit 141.

parameters/specifications for the acoustic sound barrier wall to be constructed (in conjunction with a future further processing application.) (Tr. from March 29, 2021 hearing at pp. 77-83.) Ms. Horvitz did not cross-examine DDOT.

270. On behalf of Concerned Neighbors, Ms. Ambrose raised the following questions and concerns on cross-examination of OP: the adequacy of the 2021 Campus Plan's buffering/landscaping along the eastern campus boundary to mitigate potential adverse impacts, specifically whether the buffering/landscaping was sufficient for proposed Buildings 11 and 12, and whether any proposed ground floor retail use for Building 11 would be adequately buffered from neighboring properties. Ms. Ambrose noted that OP's report does not directly analyze the 2021 Campus Plan's buffering/landscaping along the Buildings 11 and 12 boundary and requested that OP supplement its report to address this omission.⁹ Finally, Ms. Ambrose questioned the Historic Preservation Office about its rationale for determining that four historical buildings on Campus were not historically significant. (Tr. from March 29, 2021 hearing at pp. 86-93.) Ms. Ambrose did not cross-examine DDOT.
271. David Maloney from the Historic Preservation Office testified in response to a question from Concerned Neighbors regarding the 2021 Campus Plan's proposed replacement of the low-rise Clark, Roper, Gray, and McCabe halls that "we feel confident in saying that based on the information that we do have from the record, [Clark, Roper, Gray and McCabe] are not among the most significant buildings on campus" when considering their location and architecture relative to other preservation prospects of particular significance on campus such as the East Quad building. (Tr. from March 29, 2021 hearing at p. 92-93.)
272. In response to the various questions raised, Ms. Brown-Roberts from OP confirmed that OP is recommending the requirements to house students on Campus (100% of full-time freshmen and sophomores and 67% of full-time undergraduates) as conditions of approval; that OP finds the 2021 Campus Plan's proposed buffering around the Campus' western and eastern boundary sufficient to mitigate adverse impacts to neighboring properties; and that many of the other concerns regarding the specifications of and objectionable impacts associated with buildings proposed in the 2021 Campus Plan will be fully addressed in future further processing applications.

ANC 3D Testimony

273. As detailed in FOFs 140-145 above, ANC 3D Commissioner Chuck Elkins provided testimony on behalf of ANC 3D, including a detailed retelling of the history behind the formation of the AU Neighborhood Partnership. Commissioner Elkins concluded his testimony with a request that the Commission approve the 2021 Campus Plan, "hopefully with the admonition not to bring de novo issues forward to the Commission that haven't

⁹ The Commission interjected and asked that OP provide the supplement requested by Ms. Ambrose. However, as noted by Concerned Neighbors in its post-hearing submissions at Exhibits 157 and 168 to the case record, OP never provided a supplement to its report as requested.

been vetted during the community review process”;¹⁰ not send the 2021 Campus Plan back for further review by the CLC or anyone else, which would “simply duplicate the full neighborhood engagement we have already had”; and not order changes to the 2021 Campus Plan. (Ex. 107, 116, 118A1-118A6; Tr. from March 29, 2021 hearing at pp. 131-132.)

274. In response to concerns regarding the cap on student enrollment, specifically whether there is a need for imposing an undergraduate enrollment cap, Commissioner Elkins testified that ANC 3D believed the 2021 Campus Plan adequately mitigated the adverse impacts caused by AU’s student population, including impacts on transportation and parking. Commissioner Elkins noted that as a result of the community review process, the University made modifications to the proposals for Buildings 4, 11, 12, and 15 in response to community feedback; however, the objectionable building-specific impacts such as noise and lighting would be addressed in future further processing applications. Commissioner Elkins further stated that the 2021 Campus Plan’s output-oriented approach would be robust and preferable when compared to controlling the student population through a hard cap on undergraduate enrollment, as suggested by several Parties in Opposition, which could have unintended consequences for the University. (Tr. from March 29, 2021 hearing at pp. 130-131.)

Public Hearing of April 20, 2021

275. The Commission held a continued public hearing on the Application pursuant to notice and convened via Videoconference at 4:00 p.m. on April 20, 2021. (Tr. from April 20, 2021 hearing at p. 1.)

ANC 3E Testimony

276. As detailed in FOFs 159-164 above, ANC 3E Commissioner Jonathan McHugh provided testimony on behalf of ANC 3E, noting in conclusion that “ANC 3E has found the 2021 Campus Plan process has been a far more constructive and effective one that 10 years ago, and we hope that augurs well for the next 10 years.” In particular, Commissioner McHugh stated that the process of formulating the 2021 Campus Plan with the AU Neighborhood Partnership has been a “tremendous improvement” compared to previous campus plans and that ANC 3E supports the continuation of the Partnership’s involvement. (Ex. 87; Tr. from April 20, 2021 hearing at pp. 9, 12.)
277. Commissioner McHugh testified that the new development proposed by the 2021 Campus Plan would have indirect effects on ANC 3E’s residents, including impacts on traffic and parking. However, Commissioner McHugh stated that such impacts were capable of being managed under the 2021 Campus Plan through measures such as the *Good Neighbor Guidelines*. (Ex. 87; Tr. from April 20, 2021 hearing at pp. 19-21.)

¹⁰ Commissioner Elkins clarified that WPHC and Concerned Neighbors were not the parties he was referring to when he referred to parties who brought de novo issues forward that were not first vetted during the community review process.

Parties in Support

278. Troy Kravitz, the neighborhood co-chair of the AU Neighborhood Partnership, testified on behalf of the Partnership. He described the origins and role of the Partnership, its composition of five working groups and a Steering Committee, the public and open sharing of Partnership information, and the active nature of its work in connection with the development of the 2021 Campus Plan, including “58 Partnership meetings, attended by 71 different people.” (Ex. 109; Tr. from April 20, 2021 hearing at pp. 24-26.)
279. Mr. Kravitz described the Partnership’s approach to student enrollment, and particularly their consideration of an undergraduate enrollment cap. The Partnership’s view was to directly focus on the impacts of student enrollment instead of trying to get at those impacts indirectly through a cap. Mr. Kravitz testified that the 2021 Campus Plan accomplished this through updates to the *Good Neighbor Guidelines*, the creation of an online training module that students need to take before moving off campus, and the expansion of the in-person off-campus housing orientation program. Furthermore, Mr. Kravitz stated University administration will increase the frequency of their visits to major apartment buildings where students reside. (Tr. from April 20, 2021 hearing at p. 27.)
280. Mr. Kravitz noted that the Partnership’s Facilities Planning Working Group helped to determine the size, use, and siting of potential development options that worked best from the community’s perspective, while still fulfilling the University’s needs. This included setting back potential buildings further from the edges of campus, removing floors, and expanding vegetative buffers. As examples, Mr. Kravitz stated that proposed student life activities were removed from the ground floor of the section of Building 15 neighboring the Westover Place community; the proposed buffer between Building 15 and Westover Place was increased; and the proposed buildings at the corner of Rockwood Parkway and Nebraska Avenue were downsized and set back further from the street. (Tr. from April 20, 2021 hearing at pp. 27-28.)
281. Jerry Gallucci, a resident of Westover Place, also testified on behalf of the Partnership. Mr. Gallucci noted that he lives “directly behind the wall with AU,” and that he was against the development of East Campus in 2011, and was engaged in picketing and contributing funds to hire a lawyer to oppose the 2011 Campus Plan. However, Mr. Gallucci stated that when he joined the Partnership’s Facilities Working Group, he found that the University was more willing to work with neighbors and respond to issues when compared to the situation in 2011. (Ex. 114; Tr. from April 20, 2021 hearing at pp. 29-30.)
282. Mr. Gallucci noted that he met regularly with Westover Place residents who lived along the wall and also coordinated with the Westover Place board, on which he served in 2020. During the work on the 2021 Campus Plan, “AU listened, responded, and compromised on key issues” regarding Building 15, resulting in the replacement of a student dormitory with administrative and academic uses, a setback and green buffer, a reduction in the size of the building and step down in levels as it approached the wall, and confining any ground floor student life uses to the front of the building away from Westover Place. (Tr. from April 20, 2021 hearing at p. 30.)

283. Mr. Gallucci testified that the Westover Place board in 2020 agreed to join the Partnership in consensus on supporting the overall 2021 Campus Plan, while reserving their specific concerns about a possible Building 15 to be worked out in any further processing. (Ex. 100; Tr. from April 20, 2021 hearing at p. 30.)
284. John Wheeler, of 4304 Yuma Street, N.W., also testified on behalf of the Partnership. Mr. Wheeler indicated how he was impressed with the University, which he considers to be a good neighbor, noting that the University has taken a leadership role in Tenleytown Main Street. (Ex. 83; Tr. from April 20, 2021 hearing at p. 31.)
285. Anthony Ciccone, a member of the Fort Gaines Citizens Association and co-chair of the Partnership’s Transportation and Parking Working Group, also testified on behalf of the Partnership. Mr. Ciccone stated he has lived in American University Park for 33 years, and noted that his community “also shares a wall with AU,” lying just north of Nebraska Avenue and near the Katzen Arts Center. Mr. Ciccone noted that he “views Fort Gaines as an American University Park success story” that can “serve as an example or model to others.” (Tr. from April 20, 2021 hearing at p. 32.)
286. Mr. Ciccone testified that through the Transportation and Parking Working Group, neighbors worked together with AU to enhance the *Good Neighbor Parking Policy* and establish procedures to mitigate potential traffic issues. Likewise, the Partnership’s Data and Metrics Working Group is working to establish mechanisms to monitor implementation of the 2021 Campus Plan throughout its ten-year term. (Tr. from April 20, 2021 hearing at p. 33.)
287. William Clarkson, who chaired the Partnership’s Facilities Planning Working Group, also testified on behalf of the Partnership, noting that the Working Group convened “13 meetings with 176 total attendees between March 2019 and October 2020.” (Ex. 82; Tr. from April 20, 2021 hearing at p. 33.)
288. Mr. Clarkson testified that he “believes that the Campus Plan currently before the Commission is an accurate reflection of [the Partnership’s] efforts in collaboration.” He further noted that “the process worked”, and it is “incredibly important that we keep the Partnership going, and we continue the good work that has been done as we get to further processing.” (Ex. 82; Tr. from April 20, 2021 hearing at pp. 33-34.)

Persons in Support

289. Don Edwards, the CEO of Justice and Sustainability Associates and a Ward 2 resident, testified as a person in support of the 2021 Campus Plan. Mr. Edwards testified as an advisor to AU, to fence-line resident associations, ANC 3D, ANC 3E, and Upper Wisconsin community-based organizations and stakeholders since 2010. Since 2017, Mr. Edwards has also been the facilitator of the CLC. (Tr. from April 20, 2021 hearing at p. 94.)
290. Mr. Edwards testified that the 2021 Campus Plan is the result of similar consensus-based decision making, good faith, and agreement-reaching that resulted in the success of the

Georgetown Community Partnership (“GCP”). Mr. Edwards stated that the 2021 Campus Plan reflects “the same ingredients that ended decades of conflict between [Georgetown University] and its fence-line neighbors.” (Tr. from April 20, 2021 hearing at p. 96.)

291. Mr. Edwards noted that at a previous hearing, the Commission suggested that AU and its neighbors use the GCP as a model that might produce progress. Mr. Edwards stated that the “[2021 Campus] Plan you have before you, developed under the aegis of the AU Neighborhood Partnership, is the direct result of your suggestion.” (Tr. from April 20, 2021 hearing at p. 96.)
292. Susan Kimmel, a 15-year resident of Ward 3, testified on behalf of Ward 3 Vision and as a person in support of the 2021 Campus Plan. Ms. Kimmel was also a member of the Neighborhood Partnership Facilities Planning Working Group. Ms. Kimmel noted that American University is “one of the most valuable assets we have in Ward 3” and provides a range of employment opportunities and educational opportunities for the community. (Tr. from April 20, 2021 hearing at p. 97.)
293. Ms. Kimmel testified that the 2021 Campus Plan reinforces the University’s values of sustainability and providing a campus that is responsive to students’ needs. Ms. Kimmel stated that Ward 3 Vision was pleased that the Plan will ensure that the University will grow in a way that fits within the community fabric, and she urged the Commission to support and approve the 2021 Campus Plan. (Tr. from April 20, 2021 hearing at pp. 97-100.)
294. Christian Damiana, an AU sophomore and ANC 3D Commissioner (SMD 3D07) testified as a person in support of the 2021 Campus Plan in his individual capacity and not on behalf of ANC 3D. Mr. Damiana noted that students are an asset to the greater D.C. community, and they have a largely positive relationship with their neighbors. (Tr. from April 20, 2021 hearing at p. 100.)
295. Mr. Damiana stated that the 2021 Campus Plan outlines projects that will enhance the student experience, while emphasizing the University’s focus on sustainability. Mr. Damiana testified that students are particularly excited about the possibility of the West Campus village, which would include the Center for Athletic Performance and reinvigorate student life on campus. The renovation of Mary Graydon Center would also provide a place for students to congregate and participate in extracurricular activities. (Tr. from April 20, 2021 hearing at p. 101.)
296. Mr. Damiana testified that students also support the 2021 Campus Plan’s commitment to diversify student housing options; many students desire to see more affinity and community-oriented housing options for both freshmen and upper-class students. These efforts will “certainly encourage students to continue living on campus for more of their time at AU.” (Tr. from April 20, 2021 hearing at pp. 101-102.)
297. Mr. Damiana also noted that improvements such as additional Capital Bikeshare stations and collaborating with DDOT and ANCs on the expansion of bicycle and multi-use

facilities will keep AU students safe and “allow them to travel conveniently and sustainably between campus and popular destinations.” (Tr. from April 20, 2021 hearing at p. 102.)

Persons in Opposition

298. William Krebs, a 40-year resident of Spring Valley, testified as a person in opposition to the 2021 Campus Plan. Mr. Krebs indicated concern with the proposed development on West Campus, noting that “low impact tennis courts and basketball courts are now going to be high rises.” Mr. Krebs also voiced concern about placing 500 beds of student housing along the existing fence line, which is not accessible by students. (Tr. from April 20, 2021 hearing at pp. 116-118.)

Parties in Opposition

299. Natalie Ambrose, the owner of 3323 Nebraska Avenue, N.W. and 47-year resident of Wesley Heights, testified on behalf of Concerned Neighbors(Ex. 130, 130A; Tr. from April 20, 2021 hearing at p. 121.)
300. Ms. Ambrose explained that Concerned Neighbors includes seven neighbors who own single-family homes within 200 feet of the southeast side of the Main Campus at the intersection in Nebraska Avenue with Newark Street and Rockwood Parkway. (Tr. from April 20, 2021 hearing at p. 121.)
301. Ms. Ambrose testified that, in spite of positive tweaks made by the University, including “lopping of one floor for the dorm, adjustments and setbacks in landscaping,” Concerned Neighbors remains concerned with the scale, density and uses of Sites 11 and 12. Ms. Ambrose noted concerns about the use of the ground floor of the building at Site 11 for campus life purposes, which may involve commercial or retail activities at that site within 200 feet of single-family homes. (Tr. from April 20, 2021 hearing at pp. 122-123.)
302. Ms. Ambrose also stated that Concerned Neighbors were concerned with the below grade parking proposed at Sites 11/12, and the traffic, in addition to the AU shuttle and athletic buses that would converge at Fletcher Gate, across the street from neighboring homes and adjacent to an already busy intersection. (Tr. from April 20, 2021 hearing at p. 123.)
303. Ms. Ambrose stated that Concerned Neighbors have concerns about the possibility of releasing World War I era chemical or munition contamination from former defense uses near Sites 11/12 during development. Ms. Ambrose testified that Concerned Neighbors have asked for the University’s assistance and cooperation in minimizing possible impacts and for keeping community members informed, including conducting pre- and post-construction surveys of adjacent properties, and providing remediation to any homes which incur construction-related damage. (Tr. from April 20, 2021 hearing at p. 125.)
304. Ms. Ambrose noted that Concerned Neighbors are also concerned by the prospect of future development on the adjacent tract of land referred to as the “South Campus” along Rockwood Parkway, extending from Fletcher Gate to Jacobs Field. (Tr. from April 20, 2021 hearing at p. 126.)

305. Ms. Ambrose also testified that Concerned Neighbors believe the University should agree to an enrollment cap on undergraduates to help curtail the University's needs for additional housing, academic, and athletic facilities, as well as parking. (Tr. from April 20, 2021 hearing at p. 126.)
306. Ms. Ambrose noted that because of their proximity and unique vantage point of the Main Campus, a representative from Concerned Neighbors should be appointed "as a full and voting member of any relevant University and community forum tasked with implementing the 2021 Campus Plan, including at the further processing phase," including a seat at the table in the CLC as well as the AU Neighborhood Partnership. (Tr. from April 20, 2021 hearing at pp. 126-127.)
307. Ms. Ambrose stated that while Concerned Neighbors can appreciate the University's desire to "do something with this land [as] these small buildings are not efficient in terms of size and capacity, and they are dated in appearance." Because of the large scale and size and "yet still unspecified uses as currently proposed" for Sites 11/12 and other proposed development sites, Concerned Neighbors disputes that the 2021 Campus Plan meets the zoning criteria of Subtitle X § 101.2. (Tr. from April 20, 2021 hearing at pp. 127-128.)
308. Alma Gates testified on behalf of NLC. (Tr. from April 20, 2021 hearing at p. 131.)
309. Ms. Gates testified that NLC objects to the 2021 Campus Plan because it lacks predictability and protections for neighbors; the location and use of some buildings on the West Campus remain undecided; landscape buffering is dependent on further processing; the number of students, particularly the increase in undergraduate enrollment; additional neighborhood traffic impacts; the continued reliance on off-campus housing to meeting the University's housing requirement; the significant increase in density on the Main Campus; and efforts to ignore Condition No. 16 of Z.C. Order No. 11-07 which cites the CLC as the organization representing communities surrounding the University. (Tr. from April 20, 2021 hearing at pp. 132-133.)
310. Ms. Gates noted concerns about the dorms and athletic facilities that have been proposed for the West Campus and the impact they would have on neighbors' homes. Specifically, Ms. Gates stated that the topography of the West Campus site and proposed uses of the buildings will create objectionable noise and lighting impacts on the residential neighborhood during evening and nighttime hours. (Tr. from April 20, 2021 hearing at pp. 133-134.)
311. Ms. Gates testified that the 2021 Campus Plan does not provide sufficient detail about landscape buffers and lighting impacts. (Tr. from April 20, 2021 hearing at pp. 134-135.)
312. Ms. Gates testified that the NLC generally supports the University's proposed conditions of approval, but recommends "a reporting system be developed based on the provisions of Title 11, Subtitle X, Chapter 9, § 901, to ensure the University is meeting the special exception requirements, as well as its self-prescribed conditions." (Tr. from April 20, 2021 hearing at p. 137.)

313. Ms. Gates testified that NLC recommends “additional conditions stipulating that lighting and sound be such as to limit impacts on neighboring property and that the University be required to implement previous new commitments to maintain and enhance landscaping in areas bordering residential neighborhoods, especially along University Avenue.” (Tr. from April 20, 2021 hearing at p. 137.)
314. Ms. Gates noted concerns that the AU Neighborhood Partnership had undermined the purpose and role of the CLC and its relationship with the University. (Tr. from April 20, 2021 hearing at p. 138.)
315. Carol Wells testified on behalf of Westover Place Homes Corporation. (Ex. 91; Tr. from April 20, 2021 hearing at pp. 144-145.)
316. Ms. Wells indicated that Westover Place abuts East Campus and is home to approximately 300 residents who live in 149 townhomes. (Tr. from April 20, 2021 hearing at p. 145.)
317. Ms. Wells testified that WPHC board “never approved any plan, nor was any plan ever presented to the board for approval.” (Tr. from April 20, 2021 hearing at p. 145.)
318. Ms. Wells noted that WPHC thinks the proposed building on Site 15 is too large and needs to be scaled back considerably. Ms. Wells also stated that WPHC objects to the 400 underground parking spaces, supports an undergraduate enrollment cap, and has concerns about damage to their homes associated with construction of Site 15. In addition, WPHC does not support the use of Site 15 for student life purposes and indicated that the site should be used solely for administrative and academic purposes. Ms. Wells further testified that WPHC is against any curb cuts, ingress or egress, from Massachusetts Avenue and that the proposed campus plan should maintain current traffic patterns around Nebraska Avenue. (Tr. from April 20, 2021 hearing at pp. 145-148.)
319. Ms. Wells described several photographs included in WPHC’s presentation materials regarding the landscape buffer between East Campus and Westover Place, and indicated that as a condition of the 2021 Campus Plan, AU should renew its commitment to the entire buffer area from New Mexico Avenue to Massachusetts Avenue and provide “continued maintenance, upkeep, replanting, and enhancement as necessary.” (Tr. from April 20, 2021 hearing at p. 148.)
320. Laird Kirkpatrick also testified on behalf of Westover Place Homes Corporation. (Ex. 108; Tr. from April 20, 2021 hearing at p. 149.)
321. Mr. Kirkpatrick indicated that WPHC is a party in opposition, despite their extensive involvement with the Partnership, because they “feel that Westover Place is the most adversely affected neighborhood of anybody in this Plan.” (Tr. from April 20, 2021 hearing at p. 149.)

322. Mr. Kirkpatrick testified that a larger setback is needed for the proposed building at Site 15 to protect homes from loss of natural light as well as potential property damage. Mr. Kirkpatrick stated that previous construction on campus had caused serious cracks in his home which AU did not adequately repair. Mr. Kirkpatrick stated that the proposed building at Site 15 should be reduced and situated on the two-thirds of the lot furthest away from Westover Place. (Tr. from April 20, 2021 hearing at p. 151.)
323. In conclusion, Mr. Kirkpatrick urged the Commission not to consider AU any differently than they would a consider a private developer, and to not “cut AU any more slack” just because it is a university. Mr. Kirkpatrick also noted that the burden of proof should be on the University to show that they are not causing objectionable conditions. (Tr. from April 20, 2021 hearing at pp. 152-153.)
324. Dr. Jeffrey Kraskin testified on behalf of the SVWHCA. Dr. Kraskin was joined by Tom Smith. (Ex. 132; Tr. from April 20, 2021 hearing at p. 158.)
325. Dr. Kraskin testified that the 2021 Campus Plan does not meet the requirements of the Zoning Regulations and that the proposal is inconsistent with the Comprehensive Plan, Generalized Policy Map, and Land Use Element because it situates development immediately adjacent to low-density residential neighborhoods rather than the internal portions of the Campus. Dr. Kraskin stated that AU has not provided the necessary information, including the location, height, and bulk of buildings, new parking facilities, and screening plans, for the Commission to properly evaluate whether the proposed campus plan is likely to cause any objectionable conditions. (Tr. from April 20, 2021 hearing at pp. 159-161.)
326. Dr. Kraskin noted SVWHCA’s concerns regarding student enrollment, and proposed a 7,120 undergraduate student enrollment cap. (Tr. from April 20, 2021 hearing at pp. 163-164.)
327. Dr. Kraskin testified that the development proposed on West Campus, specifically Sites 2, 3, and 4, will create objectionable conditions for neighboring properties due to noise, light impacts, and overall cumulative massing and scale, and that AU should be required to develop detailed TDM strategies for review of the Commission and other parties as part of the 2021 Campus Plan process. Dr. Kraskin stated that the University’s proposed TDM measures which were submitted into the record are inadequate to address anticipated changes in traffic conditions. (Tr. from April 20, 2021 hearing at pp. 164-165.)
328. Dr. Kraskin testified that the 2021 Campus Plan should be rejected outright by the Commission or sent back to AU for more information, and that AU should be directed to work with the community openly through the CLC. (Tr. from April 20, 2021 hearing at p. 166.)
329. Laurie Horvitz, Esq. testified on behalf of Jessica Herzstein and Elliot Gerson, the owners of 4710 Woodway Lane, N.W. (Tr. from April 20, 2021 hearing at p. 186.)

330. Ms. Horvitz indicated that Kody Snow would be testifying as an expert witness with respect to acoustics. Mr. Snow’s resume was included at Exhibit 32. With no objections from the Commission, Mr. Snow was accepted as an acoustics expert. (Ex. 133; Tr. from April 20, 2021 hearing at pp. 186-187.)
331. Mr. Gerson also testified on behalf of himself and his wife, Dr. Herzstein. Mr. Gerson described the objectionable noise from Jacobs Field, the unsuccessful efforts to resolve the problem, and suggestions regarding the 2021 Campus Plan application. (Ex. 133; Tr. from April 20, 2021 hearing at pp. 188-195.)
332. Mr. Gerson testified that the noise today is far worse than in 2001 and that there has been a lack of compliance with some, if not most, of AU’s key obligations. Mr. Gerson described the noise as “incredibly disturbing and often relentless, frequently from 7:00 in the morning until dark.” (Tr. from April 20, 2021 hearing at pp. 189-191.)
333. Mr. Gerson noted that “with a properly engineered and constructed sound wall, followed by the acceptance of simple, reasonable, science-based, and enforceable conditions, we should finally be able to get where we need to be.” (Tr. from April 20, 2021 hearing at p. 191.)
334. Mr. Gerson stated that the objectionable noises from Jacobs Field were oftentimes caused by persons not affiliated with AU during the summer months. Mr. Gerson requested that the Commission approve and clarify the definition of “special events” to provide “more reasonable, rational, and understandable limits of field usage.” (Tr. from April 20, 2021 hearing at pp. 191-192.)
335. Mr. Gerson testified that there were many productive and collaborative meetings with American University, but that the University unilaterally decided to cease all meetings and almost all communications in 2019. (Tr. from April 20, 2021 hearing at p. 192.)
336. Mr. Gerson testified that the only logical and effective location for the sound wall is where AU’s existing fence is located, and that many conditions relating to time, duration, character, sources, and types of noise must remain once the wall is built to address the objectionable noise from Jacobs Field. (Tr. from April 20, 2021 hearing at p. 195.)
337. Kody Snow, a Senior Engineer with Phoenix Noise and Vibration, testified as an expert witness in acoustics on behalf of Dr. Herzstein and Mr. Gerson. Mr. Snow was engaged to analyze the noise impact on the property at 4710 Woodway Lane, N.W. from use of Jacobs Field. His analysis included ambient noise measurements at 4710 Woodway Lane, N.W. and reviewing information provided in reports completed by AU’s consultant Miller, Beam and Paganelli. (Tr. from April 20, 2021 hearing at p. 196.)
338. Mr. Snow reported that he conducted a five-day noise measurement survey on the 4710 Woodway Lane, N.W. property in December 2020 (COVID-19 restrictions on the use of Jacobs Field were in place), which found that most Jacobs Field noise sources generated noise levels in excess of 60 dBA upon the 4710 Woodway Lane, N.W. property and that

they were more than three times as loud as the ambient noise environment, which was less than or equal to 45 dBA 63% of the time. Mr. Snow stated that this increase and type of noise could be classified as objectionable and exceeds the maximum allowable daytime noise level of 60 dBA upon a residential property established by the District of Columbia Municipal Regulations. Mr. Snow testified that it is likely that with a 15-foot-high noise barrier, that the shot clock and possibly other noise sources will still be objectionable and exceed the DCRA residential daytime limit of 60 dBA at the property. Mr. Snow recommended that additional mitigation measures be put in place, “such as regulating amplified noise and amplified noise events, sound monitoring of field activity, limiting field usage hours, as well as other mitigation measures.” (Tr. from April 20, 2021 hearing at pp. 197-198.)

Persons in Opposition

339. Ruth Knouse, a resident of 4300 Massachusetts Avenue, N.W., testified as a person in opposition to the 2021 Campus Plan. Ms. Knouse noted several objectionable conditions to the proposed Building 15, including its size and use. In addition, Ms. Knouse indicated concern with the buffer that exists between AU and Westover Place, and proposed that the Commission send the 2021 Campus Plan back to the CLC for more neighborhood input. (Tr. from April 20, 2021 hearing at pp. 214-215.)
340. Shelly Repp, who lives one block from AU’s Spring Valley Building (4801 Massachusetts Avenue, N.W.), testified as a person in opposition to the 2021 Campus Plan. Mr. Repp noted the positive role AU provides, but he also indicated several concerns about the 2021 Campus Plan. Mr. Repp suggested that the Commission ask the University to provide an independent report on student enrollment, impose an undergraduate enrollment cap, and also ask more questions about Wesley Seminary’s planned student dormitory. Finally, Mr. Repp commented that the AU Neighborhood Partnership is not an inclusive body, and suggested that the Partnership and the CLC “should be collapsed into one single, transparent entity.” (Tr. from April 20, 2021 hearing at pp. 216-218.)

Public Hearing of April 28, 2021

341. The Commission held a continued public hearing on the Application pursuant to notice and convened via Videoconference at 5:30 p.m. on April 28, 2021. (Tr. from April 28, 2021 hearing at p. 1.)

Applicant’s Rebuttal Testimony

342. Ed Fisher provided the rebuttal testimony on behalf of the Applicant. (Ex. 125A1-125A6, 137, 137A; Tr. from April 28, 2021 hearing at p. 7.)
343. Mr. Fisher testified about the collaborative work among the University, the AU Neighborhood Partnership, the CLC, ANC 3D, and ANC 3E that resulted in the 2021 Campus Plan, and discussed the University’s belief that maintaining both the CLC and the Partnership will be effective as the 2021 Campus Plan is implemented. Mr. Fisher stated that the University will continue to report to the CLC on all issues relating to the University and its compliance with the zoning order. Mr. Fisher asked the Commission to allow AU to continue to pursue both processes consistent with the University’s proposed conditions

3 and 4 set forth in the 2021 Campus Plan submission at Exhibit 3. (Tr. from April 28, 2021 hearing at pp. 7-8.)

344. Mr. Fisher affirmed that the 2021 Campus Plan application complies with all of the applicable Zoning Regulations including Subtitle X § 101.2. Mr. Fisher testified that the proposed setbacks for sites located near residential properties were “thoughtfully considered based on feedback from members of the community and the surrounding context of each development site.” (Tr. from April 28, 2021 hearing at p. 9.)
345. In response to a request from the Commission, the University updated Exhibit L of the 2021 Campus Plan submission to include building height in feet as well as stories. (Ex. 137A.). The Applicant also provided a color-coded graphic that shows all proposed buildings in relation to existing campus facilities. (Ex. 137A.) Mr. Fisher also confirmed that the building heights provided for the developments on Sites 3 and 4 were measured from the adjacent finished grade closest to University Avenue. (Tr. from April 28, 2021 hearing at pp. 9-10.)
346. Mr. Fisher testified that the tennis courts that would be displaced by Sites 3 and 4 would not be relocated on the roof of the Center for Athletic Performance. Mr. Fisher also confirmed that new campus development would not have habitable penthouses. (Tr. from April 28, 2021 hearing at p. 10.)
347. Mr. Fisher described several photographs included in the Applicant’s rebuttal presentation (Ex. 137A.) that illustrated the existing buffer along University Avenue and between East Campus and Westover Place. Mr. Fisher testified that the University continues to maintain and refill the campus buffer zones when needed. Mr. Fisher also noted that he personally signed an agreement with Westover Place Homes Corporation on October 29, 2020 in which the University committed to maintaining the buffer near the Westover community. (Tr. from April 28, 2021 hearing at pp. 10-11.)
348. Mr. Fisher addressed issues raised during the hearings regarding Jacobs Field. Mr. Fisher confirmed that the proposed acoustical sound barrier wall would be constructed at the location most suitable to mitigate the objectionable sound, and that the University had expedited the timing of the construction of the wall by committing that it would be the first project that AU moves forward with under the 2021 Campus Plan, and that a further processing application would be submitted within 12 months of the order of approval for the 2021 Campus Plan.¹¹ Mr. Fisher confirmed that the proposed wall is anticipated to be approximately 360 feet wide as noted in Exhibit W of the 2021 Campus Plan submission (Ex. 3E.) and approximately 15 feet high, and underscored the Applicant’s commitment to working with Dr. Herzstein and Mr. Gerson on appropriate conditions to allow for the continued use of Jacobs Field without undue disturbance. (Tr. from April 28, 2021 hearing at pp. 11-12.)

¹¹ Subsequent to the hearing, the University and Herzstein/Gerson agreed to a condition that a further processing application would be submitted within 6 months instead of 12 months of the order approval for the 2021 Campus Plan. The final agreed upon conditions are at Exhibit 165 in the case record.

349. Mr. Fisher described the current configuration of speakers, shot clocks, and the scoreboard horn on Jacobs Field that are used for NCAA women's lacrosse and field hockey games, and also provided an overview of the types of activities and events that are held on Jacobs Field. (Tr. from April 28, 2021 hearing at pp. 12-13.)
350. Mr. Fisher explained the location and orientation of the proposed new scoreboard at Reeves Field, and confirmed that the only sound that would be generated from the scoreboard is associated with clock starts and stops, substitutions, and ends of periods of play, as required for NCAA competition. The scoreboard does not face the neighborhood, as illustrated in the record. (Ex. 137A.; Tr. from April 28, 2021 hearing at p. 13.)
351. Iain Banks testified on behalf of the Applicant to address questions raised during the hearings regarding transportation issues. (Tr. from April 28, 2021 hearing at p. 13.)
352. Mr. Banks provided data that demonstrated that the vehicular trips observed as part of the Applicant's CTR reflected an increase in vehicular traffic in the a.m. and p.m. peak periods compared to data from the 2011 CTR; however, the 2011 CTR predicted that an increase in the number of vehicular trips would occur, and the vehicular trip counts observed in February 2020 were very similar to what was projected in 2011. Mr. Banks also provided information about certain parking spaces at 4330 48th Street, N.W. and AU's easement rights to use them. Mr. Banks confirmed that these spaces are not included in the 2021 Campus Plan parking inventory because 4330 48th Street, N.W/ is not one of the properties included in the 2021 Campus Plan. (Ex. 137A; Tr. from April 28, 2021 hearing at pp. 13-15.)
353. Mr. Fisher provided information in response to questions raised about the discrepancy in fall 2020 enrollment numbers available from different sources. Specifically, Mr. Fisher detailed the difference between the 7,475 undergraduates reported in the University's Academic Resource Book and the 6,933 students reported to the CLC. Mr. Fisher explained that the difference in reporting was due to the fact that the 7,475 student count was calculated using AU's Academic Resource Book, which includes study abroad students, part-time students, online only students, and students who may have subsequently withdrawn. In comparison, the 6,933 student count reported to CLC was calculated using the 2011 Campus Plan's methodology, which does not include study abroad students, part-time students, online only students, or students who may have subsequently withdrawn. Mr. Fisher pointed out that the number of study abroad students, part-time students, online only students, and students who may have subsequently withdrawn counted in the October 2020 student census totaled 542, which equals the difference between the 7,475 and 6,933 student counts. (Tr. from April 28, 2021 hearing at pp. 16-17.)
354. Mr. Fisher clarified the University's student housing requirement, and in response to a question from the Commission, reported that approximately 30% to 35% of AU sophomore students reside off campus. (Tr. from April 28, 2021 hearing at pp. 17-18.)

355. Mr. Fisher confirmed that the Applicant has no plans to pursue satellite campus locations in Maryland or Virginia, and also pointed out the provisions of the 2021 Campus Plan submission (Ex. 3.) that address the Plan’s consistency with the Comprehensive Plan. (Tr. from April 28, 2021 hearing at p. 18.)
356. Mr. Fisher presented screenshots of AU’s new online training orientation program for students who live off campus, which the Applicant previously noted it will implement to mitigate the noise, trash, and other related impacts stemming from students who live off-campus. (Tr. from April 28, 2021 hearing at p. 18.)
357. Mr. Fisher addressed the extensive dedication and community engagement and involvement that contributed to the development of the 2021 Campus Plan, noting the inclusivity and transparency of the process. Mr. Fisher also encouraged “the CLC and other neighbors, no matter how they currently feel about the proposed Plan, to be engaged in the Partnership and further processing” as the University implements the 2021 Campus Plan. (Tr. from April 28, 2021 hearing at p. 19.)
358. Mr. Fisher outlined the additional conditions of approval that the Applicant agreed to in response to the OP (Ex. 56.) and DDOT (Ex. 49.) reports filed in connection with the 2021 Campus Plan, including undertaking actions in support of the preservation of historic campus resources; not seeking to include additional master leased beds to count toward the student housing requirement beyond the existing 200 beds at The Frequency Apartments; and funding a new 19-dock Capital Bikeshare station and expanding the two existing Bikeshare stations near campus. In addition, the University agreed to limit increases to student housing inventory to 500 additional beds, or 700 additional beds if master leased beds are no longer counted toward the student housing requirement. (Tr. from April 28, 2021 hearing at pp. 19-20.)
359. Mr. Fisher concluded his rebuttal testimony by noting that the 2021 Campus Plan does not end once the Commission order is rendered, commenting that “AU must continue to work with the community as we implement the Plan and is fully committed to doing so.” (Tr. from April 28, 2021 hearing at p. 20.)
360. After the conclusion of the Applicant’s rebuttal testimony, the Commission assured the Parties in Opposition that their various concerns regarding potential objectionable impacts will not be foreclosed from future further processing proceedings for specific buildings proposed under the 2021 Campus Plan. (Tr. from April 28, 2021 hearing at pp. 32-35.)

Cross-Examination of Applicant’s Rebuttal Testimony by Parties

361. Troy Kravitz cross-examined the University’s rebuttal testimony on behalf of the Partnership and asked whether the University could agree to a set of “contingent conditions” concerning Jacobs Field that could be relaxed if the Applicant satisfied the appropriate performance measures related to noise mitigation, so that there could be a clear and complete set of new conditions. (Tr. from April 28, 2021 hearing at pp. 41-42.)

362. In response to Mr. Kravitz's cross-examination, Paul Tummonds on behalf of the Applicant stated that it would formulate a set of conditions related to Jacobs Field and include them in the Applicant's post-hearing submission.¹² (Tr. from April 28, 2021 hearing at pp. 42-43.)
363. Commissioner Jonathan McHugh conducted ANC 3E's cross-examination and asked Mr. Banks to provide a percentage representing AU's share of the total traffic volume on Nebraska and Massachusetts Avenues. (Tr. from April 28, 2021 hearing at p. 44.)
364. In response to Commissioner McHugh's request, Mr. Banks stated that the Applicant would submit additional data reflecting AU's share of vehicle traffic along Nebraska and Massachusetts Avenues.¹³ (Tr. from April 28, 2021 hearing at p. 44.)
365. ANC 3D did not cross-examine the Applicant's rebuttal testimony. (Tr. from April 28, 2021 hearing at p. 44.)
366. Alma Gates cross-examined the Applicant on behalf of NLC. Ms. Gates posed various questions, including how the heights of Buildings 3 and 4 can be measured from the adjacent finished grade closest to University Avenue when such grade can be affected by topography and is subject to change at the further processing stage. Ms. Gates also questioned if the University should improve its landscaping proposal given the apparent gaps in the buffer installed along University Avenue. (Tr. from April 28, 2021 hearing at pp. 45-60.)
367. In response to Ms. Gates' building height question, Mr. Tummonds confirmed that Buildings 3 and 4 will be no higher than 60 feet tall when measured from their closest point to University Avenue, which is a distance of approximately 110 feet as shown in the 2021 Campus Plan's diagram of West Campus. Mr. Tummonds cited the color-coded graphic in the Applicant's rebuttal presentation showing the proposed buildings heights. (Ex. 137A.) With regards to Ms. Gates' question about the landscape buffer, Mr. Tummonds reiterated the University's position that the existing buffer is adequate and would continue to be monitored for any deficiencies. (Tr. from April 28, 2021 hearing at pp. 51-53.)
368. On behalf of WPHC, Ben Tessler cross-examined the University on its rebuttal testimony and raised issues concerning the height of Building 15 across from the Westover community. Mr. Tessler also questioned whether the Applicant adequately described the uses for the proposed buildings in the 2021 Campus Plan. (Tr. from April 28, 2021 hearing at pp. 60-71.)
369. Mr. Fisher responded to Mr. Tessler's cross-examination by reiterating that the exact height of the proposed building on Site 15 in relation to the adjacent Westover townhomes will not be known until the further processing stage, but confirmed that the heights of each

¹² The final agreed upon conditions between the University and Herzstein/Gerson regarding Jacobs Field are at Exhibit 165 in the case record.

¹³ The Applicant submitted into the record vehicle movement counts at various locations along Nebraska and Massachusetts Avenues, including the percentages attributable to AU, at Exhibits 141 and 165.

proposed building will not exceed the corresponding heights indicated in Exhibit L of the Applicant's Statement at Exhibit 3D, as supplemented by the Applicant's updated rebuttal testimony at page 5 of Exhibit 137A. The Commission also commented on Mr. Tessler's question regarding the campus plan application requirements to clarify that Subtitle Z § 302.10 requires the Applicant to provide a Facilities Plan showing, among other things, proposed building uses, which AU did provide in its 2021 Campus Plan. (Tr. from April 28, 2021 hearing at pp. 60-71, 90-91, 96-97.)

370. Laurie Horvitz, Esq. conducted cross-examination on behalf of Herzstein/Gerson. Ms. Horvitz questioned the University on its willingness to expedite construction of the acoustic wall, the dimensions and location of the acoustic wall, the positioning of amplified speakers, air horns, and a shot clock at Jacobs Field, and the types of special events at Jacobs Field. (Tr. from April 28, 2021 hearing at pp. 72-90.)
371. In response to Ms. Horvitz's cross-examination, Mr. Fisher indicated that the University was amenable to proposing a set of conditions addressing Herzstein/Gerson's concerns regarding the length and location of the acoustic wall as well as the timeline for applying for a permit to construct the wall. However, Mr. Fisher stated that the Applicant was not at that time considering any additional conditions other than the original conditions being carried forward and the conditions regarding further processing approval for and construction of the acoustic wall.¹⁴ (Tr. from April 28, 2021 hearing at pp. 72-90.)
372. Natalie Ambrose appeared on behalf of Concerned Neighbors and stated that her questions were addressed by the previous cross-examiners. (Tr. from April 28, 2021 hearing at pp. 91-93.)
373. Tom Smith cross-examined the Applicant as the representative of SVWHCA and asked if the University had plans for mitigating sound from the new scoreboard at Reeves Field. Mr. Smith also reiterated his question on whether the Applicant's proposed TDM measures were adequate given the increase in traffic since the University's 2011 CTR was conducted, particularly in the a.m. (morning) peak hour period when vehicular traffic counts exceeded projections made in 2011. (Tr. from April 28, 2021 hearing at pp. 94-114.)
374. In response to Mr. Smith's question about the Reeves Field scoreboard, Mr. Fisher stated that the new scoreboard is replacing an existing scoreboard at Reeves Field and that AU anticipates no changes in current noise conditions. Mr. Fisher noted the University has not received any noise complaints with respect to the existing scoreboard at Reeves Field. In response to Mr. Smith's question about the Applicant's proposed TDM measures, Mr. Tummonds indicated that the Applicant would provide its answer in a written filing.¹⁵ (Tr. from April 28, 2021 hearing at pp. 94-95, 113.)

¹⁴ The final agreed upon conditions between the University and Herzstein/Gerson regarding Jacobs Field are at Exhibit 165 in the case record.

¹⁵ The Applicant's response was included in its post-hearing statement at Exhibit 141, which was supplemented by an additional post-hearing statement at Exhibit 165.

Applicant's Post-Hearing Submission

375. On May 12, 2021, the Applicant filed its post-hearing submission (the "Applicant's Post-Hearing Submission") in response to requests for additional information made during the April 28, 2021 public hearing in this case. (Ex. 141.)
376. The Applicant provided additional information describing how the Applicant's use of Jacobs Field is not likely to become objectionable to neighboring property because of noise, including a point-by-point response to the concerns raised by Herzstein/Gerson regarding the Applicant's use of Jacobs Field. Specifically, the Applicant provided available noise monitoring data from NCAA field hockey and women's lacrosse games held at Jacobs Field since 2016, which indicates that decibel readings taken at the fence line between the University and the residence at 4710 Woodway Lane, N.W. since 2016 have remained at or below 60 dB, with the exception of three occasions in 2019 at which time levels of 60.1 dB, 61.0 dB, and 62.0 dB were recorded. (Ex. 141.)
377. The Applicant provided its responses to the 15 conditions proposed by Herzstein/Gerson in their March 16, 2021 filing. (Ex. 69.) As detailed in the Applicant's Post-Hearing Submission, the Applicant agreed to seven of the conditions with no edits, six of the conditions with edits, and rejected two of the 15 proposed conditions. The Applicant agreed to file a further processing application for the sound barrier wall within six months of the issuance of this Z.C. Order No. 20-31 and to file for a building permit for the construction of the sound barrier wall within six months after approval by the Commission of the further processing application. The Applicant also affirmed its compliance with all conditions of the 2011 Campus Plan (Z.C. Order No. 11-07) related to Jacobs Field, specifically conditions 17 through 25, as well as a list of "special events" that have been held on Jacobs Field since 2016. (Ex. 141.)
378. With respect to transportation issues, the Applicant provided information on the percentage of average traffic volumes along Massachusetts Avenue and Nebraska Avenue that are AU-related, as requested by ANC 3E Commissioner Jonathan McHugh at the Commission's April 28, 2021 public hearing. This data taken during the week of February 25, 2020, indicates that at Massachusetts Avenue at Glover Gate, 12.33% of morning peak hour (8:15 a.m. to 9:15 a.m.) traffic was attributable to AU, and 15.93% of afternoon peak hour (5:00 p.m. to 6:00 p.m.) traffic was attributable to AU. With respect to traffic at Nebraska Avenue at Rockwood Parkway, the percentage of traffic attributable to AU was 10.49% in the morning peak hour and 13.92% during the afternoon peak hour. (Ex. 141.)
379. The Applicant also provided a narrative compilation of the University's proposed TDM measures and a discussion of their sufficiency as set forth in the 2021 Campus Plan submission (Ex. 3.), CTR (Ex. 18A.), DDOT report (Ex. 49.), and testimony throughout the hearings in this case. (Ex. 141.) As noted, the Applicant's TDM measures were also provided. (Ex. 99.)
380. In response to a question from the Commission regarding the relationship of proposed University building heights on the Main Campus to adjacent properties, the Applicant provided sections illustrating perspectives from University Avenue, N.W., Rockwood

Parkway and Nebraska Avenue, N.W., and Westover Place. The Applicant also provided the heights of existing buildings on the Tenley Campus as well as 4801 Massachusetts Avenue, N.W., 4200 Wisconsin Avenue, N.W., and 3201 New Mexico Avenue, N.W. (Ex. 141.)

Responses of Parties in Opposition to Applicant's Post-Hearing Submission

381. At the April 28, 2021 public hearing, the Commission provided each Party in Opposition an opportunity to submit comments in response to the Applicant's Post-Hearing Submission. (Tr. from April 28, 2021 hearing at p. 117.)
382. WPHC filed a statement dated May 19, 2021 ("WPHC's Response") in response to the Applicant's Post-Hearing Submission. WPHC's Response stated that the visual renderings of the heights of the proposed buildings at Sites 11, 12, and 15 included in the Applicant's Post-Hearing Submission "distorts the true height and visual effect of the building on nearby homes in respect to volume, density, views and natural light deprivation." WPHC stated that the top floor of Westover townhomes has a view into the building on Site 15, not upward into the sky as presented in the Applicant's Post-Hearing Submission. (Ex. 147.)
383. SVWHCA filed a statement dated May 19, 2021 ("SVWHCA's Response") in response to the Applicant's Post-Hearing Submission. SVWHCA's Response contests the accuracy of the section graphics provided in Exhibit D of the Applicant's Post-Hearing Submission and states that the buildings on Sites 2, 3, and 4 of the 2021 Campus Plan are at least 10 feet higher than the neighboring residential homes, even though the Applicant's sections depict them as below the grade of University Avenue. (Ex. 151.)
384. SVWHCA's Response also noted that the vehicle movement counts along Massachusetts Avenue and Nebraska Avenue provided in the Applicant's Post-Hearing Submission did not include traffic counts elsewhere along Massachusetts Avenue, such as at AU's Spring Valley Building and the Katzen Arts Center, as well as Tenley Campus on Nebraska Avenue. SVWHCA stated that the Applicant's vehicle movement data did not distinguish between automobiles and trucks and buses and did not explain what percentage of traffic attributed to AU has increased or decreased over the last 10 years. (Ex. 151.)
385. SVWHCA's Response stated that the Applicant's Post-Hearing Submission failed to provide more aggressive TDM measures in response to an increase in vehicular traffic over the past 10 years that exceeded projections in the 2011 Campus Plan. SVWHCA also stated that the Applicant has not provided a response to the Commission's question regarding the number of students from Maryland and Virginia attending AU, which was raised at the March 29, 2021 public hearing. (Ex. 151; Tr. from March 29, 2021 hearing at p. 65.)
386. Herzstein/Gerson filed a statement dated May 19, 2021 ("Herzstein/Gerson's Response") in response to the Applicant's Post-Hearing Submission. Herzstein/Gerson's Response stated that it should be provided an opportunity to cross-examine AU regarding the new noise monitoring data gathered from Jacobs Field and presented in the Applicant's Post-

Hearing Submission or, in the alternative, have such information struck from the record because it was untimely introduced. (Ex. 153.)

387. Herzstein/Gerson's Response asserted that noise from Jacobs Field is in fact objectionable based on Herzstein/Gerson's testimony, the opinions of acoustic experts proffered by Herzstein/Gerson, and ample documentation. Herzstein/Gerson's Response included a statement from acoustics expert Kody Snow stating that the new sound readings provided in the Applicant's Post-Hearing Submission are not scientifically reliable because the measurement devices used were not disclosed or confirmed to be properly calibrated; it is unclear whether the readings were weighted correctly and set to an appropriate response time; it is unclear whether the noise levels were averaged or instantaneous; and it is unclear where the noise testing sites were located. (Ex. 153.)
388. Herzstein/Gerson's Response also expressed concerns with the Applicant's assertions about its full compliance with the conditions from the 2011 Campus Plan, specifically Condition Nos. 17, 20, 23, 24(a), 24(b), 24(c), 24(d), 24(e), 24(f), 24(g), 24(h), and 25 of Z.C. Order No. 11-07. Herzstein/Gerson stated that such assertions were conclusory and not supported by evidence. (Ex. 153.)
389. Herzstein/Gerson responded to the Applicant's revisions to its proposed conditions relating to the use of Jacobs Field. Herzstein/Gerson stated that all of the conditions in the existing 2011 Campus Plan should remain in place until the acoustic barrier is constructed and tested and until such time AU submits scientific evidence supporting relief from any given condition. (Ex. 153.)
390. Concerned Neighbors submitted a statement dated May 19, 2021 ("Concerned Neighbors' Response") in response to the Applicant's Post-Hearing Submission. Concerned Neighbors' Response took issue with the average traffic volumes reported along Massachusetts Avenue and Nebraska Avenue and stated that the data presented in the Applicant's Post-Hearing Submission did not account for traffic along a broader stretch of Nebraska Avenue between Main Campus and Tenleytown directed to points other than Fletcher Gate. (Ex. 155.)
391. Concerned Neighbors' Response stated that the narrative compilation of TDM measures included in the Applicant's Post-Hearing Submission provided no new data, analysis, insights, or assurances to neighbors that the increasing traffic along Nebraska Avenue and Massachusetts Avenue will be adequately addressed. Concerned Neighbors contended that the Applicant's Post-Hearing Submission was not responsive to the Commission's question regarding the sufficiency of the 2021 Campus Plan's TDM measures. (Ex. 155.)
392. Concerned Neighbors' Response stated that the graphic depictions of new university buildings being proposed by the 2021 Campus Plan are confusing and oversimplified. Concerned Neighbors' Response specifically criticized the depiction for Section C, which shows only one elevation and perspective that Concerned Neighbors claimed is not representative of any of the homes represented by Concerned Neighbors. (Ex. 155.)

393. NLC submitted a statement dated May 19, 2021 (“NLC’s Response”) in response to the Applicant’s Post-Hearing Submission. NLC’s Response criticized the Applicant for failing to address the need for additional buffering between campus development and neighboring residential communities; described the sections and elevations provided in the Applicant’s Post-Hearing Submission as distorted and lacking sufficient definition; and stated that AU has been responsible for increasing traffic along Nebraska Avenue and Ward Circle. (Ex. 159.)

Applicant’s Submission Demonstrating Satisfaction with the Campus Plan Requirements

394. On May 19, 2021, in response to a request by the Commission made at the April 28, 2021 public hearing, the Applicant filed a submission providing a citation to each specific exhibit in the record or hearing testimony in this case which (1) demonstrated the 2021 Campus Plan’s satisfaction of the application requirements of Subtitle X § 101.8 and Subtitle Z § 302.10; and (2) provided justifications for why the 2021 Campus Plan met the campus plan requirements of Subtitle X §§ 101.1-101.16. (Ex. 145.)

ANC Submissions Demonstrating Satisfaction with the Campus Plan Requirements

395. On May 18, 2021, ANC 3D filed a post-hearing submission in response to a request from the Commission made during the April 28, 2021 public hearing detailing how the Applicant has satisfied the campus plan requirements of the Zoning Regulations. (Ex. 142.)
396. In its post-hearing submission, ANC 3D focused on the 2021 Campus Plan’s satisfaction of Subtitle X § 101.2, which concerns whether campus plan uses are “located so that they are not likely to become objectionable to neighboring property because of noise, traffic, parking, number of students, or other objectionable conditions.” ANC 3D stated it was competent to advise the Commission only on Subtitle X § 101.2 and did not address any of the other campus plan requirements of Subtitle X § 101. (Ex. 142.)
397. ANC 3D’s post-hearing submission (Ex. 142.) stated that the Applicant satisfied the requirements of Subtitle X § 101.2 based on the reasons provided in its report dated December 15, 2020 (Ex. 10.), as well as ANC 3D Commissioner Elkins’ oral testimony at the March 29, 2021 public hearing, which ANC 3D approved by a letter dated April 7, 2021 (Ex. 116.)
398. On May 19, 2021, ANC 3E also filed a post-hearing submission showing how the Applicant has satisfied the campus plan requirements of the Zoning Regulations. (Ex. 156.)
399. In its post-hearing submission, ANC 3E stated that the 2021 Campus Plan fully satisfied the requirements of Subtitle X § 101.2 based on the reasons cited in its report. (Ex. 6.) ANC 3E stated that it could not speak to any other provisions of Subtitle X § 101 other than § 101.2. (Ex. 156.)

AU Neighborhood Partnership Submission Demonstrating Satisfaction with the Campus Plan Requirements

400. On May 18, 2021, the AU Neighborhood Partnership filed a post-hearing submission in response to a request from the Commission made at the April 28, 2021 public hearing, to describe how the Applicant has satisfied the Zoning Regulations' campus plan requirements. (Ex. 143.)
401. The Partnership's post-hearing submission stated that the Applicant satisfied the campus plan requirements based on the Applicant's filings, including its May 12, 2021 post-hearing statement (Ex. 141.), as well as the Partnership's own oral and written testimony submitted into the record. (Ex. 13, 109, 143.)

Submissions of Parties in Opposition Demonstrating Applicant's Failure to Satisfy Campus Plan Requirements

402. At the April 28, 2021 public hearing, the Commission asked each Party in Opposition to file a post-hearing statement describing how the Applicant has not satisfied the campus plan requirements of Subtitle X §§ 101.1-101.16, with specific references to the exhibits and hearing dates at which supporting evidence or testimony was filed or presented. (Tr. from April 28, 2021 hearing at p. 115.)
403. WPHC submitted a post-hearing statement dated May 18, 2021, in which WPHC expressed concerns that the proposed building at Site 15 is inconsistent with the standards set by Subtitle X §§ 101.2 and 101.8 because: the proposed building is too large and does not have a sufficient setback to avoid damage to the Westover townhouses during construction; damage to the Westover homes is more likely if an underground garage is approved because Site 15 is situated on a slope above Westover Place; the 2021 Campus Plan's description of the proposed use of Building 15 is too ambiguous; the proposed "student life" functions at Building 15, which WPHC believes may include retail or auditorium/event space, should not be permitted so close to Westover Place; the vehicular and pedestrian traffic impacts of such a large building will adversely affect the neighborhood; and an underground garage in Building 15 with 400 parking spaces would be unnecessary and cause serious traffic and safety issues. (Ex. 144.)
404. WPHC's statement noted that the size of Building 15 would create objectionable impacts on WPHC residents' access to natural light and views. WPHC's statement claimed that Subtitle X § 101.2 prohibits outside activities or noise-making that disturbs residents after 6:00 p.m. or on weekends as well as entrances, exits, trash receptacles, and storage or loading docks on Massachusetts Avenue or at the rear of Building 15 near Westover Place. WPHC stated that Subtitle X § 101.2 requires an enhanced setback and buffer between Building 15 and Westover Place as well as a commitment from AU to provide continued maintenance and upkeep of the buffer area from New Mexico Avenue to Massachusetts Avenue. WPHC further stated that AU must present a clear plan on how it intends to handle water runoff and erosion and guarantee that no drainage is directed to Westover Place. WPHC stated that any dangerous substances found during the development of Site 15 should be handled and disposed of properly. (Ex. 144.)

405. NLC submitted a post-hearing statement dated May 19, 2021, describing how the 2021 Campus Plan failed to satisfy the requirements of Subtitle X §§ 101.2, 101.5, 101.11, 101.12, and 101.14. (Ex. 146.)
406. NLC stated that the 2021 Campus Plan did not provide enough detail to meet the Applicant's burden of proof under Subtitle X § 101.2. NLC's statement cited concerns from NLC and other Parties in Opposition and questions raised by the Commission at the public hearings regarding the lack of predictability and certainty surrounding the proposed development. NLC's statement included a 2005 letter to AU's former Chief of Staff from a former ANC 3D chair expressing concern about the University's non-compliance with Jacob's Field. (Ex. 146, 146A.)
407. With regards to Subtitle X § 101.5, NLC's statement noted that the overall campus acreage is currently unknown because the University is "purchasing new properties that extend the overall campus acreage" and dilute the density of any single lot. NLC asked the Commission to require a tally of all existing and proposed buildings on campus to ensure that the maximum total density is not being exceeded in violation of Subtitle X § 101.5. Furthermore, NLC's statement indicated that the lack of clarity on the FAR limitation creates issues for certifying that a proposed building is within such limit as required under Subtitle X § 101.12. (Ex. 146.)
408. With regards to Subtitle X § 101.11, NLC stated that a discussion of the District Elements of the Comprehensive Plan has not occurred in testimony. However, NLC acknowledged that a discussion of the Comprehensive Plan has been included in the 2021 Campus Plan submitted into the record as Exhibit 3. (Ex. 146.)
409. With regards to Subtitle X § 101.14, NLC's statement cited the Applicant's testimony regarding the landscape buffers across campus and provided photographs taken in the early spring of 2021 of the landscape buffer on University Avenue which NLC noted show a clear lack of adequate buffer coverage. (Ex. 146, 146B.)
410. SVWHCA submitted a post-hearing statement dated May 19, 2021, describing how the 2021 Campus Plan was not in compliance with the campus plan requirements of the Zoning Regulations. (Ex. 150.)
411. SVWHCA's statement stated that the 2021 Campus Plan was not in compliance with Subtitle X § 101.2 because Sites 1-5 on West Campus, Reeves Field, Sites 11-12, and Site 15 create objectionable impacts on neighboring properties due to traffic, parking, noise, and the number of students. Specifically, SVWHCA's statement asserted the following: the 2021 Campus Plan does not provide an adequate plan for mitigating noise and lighting impacts from proposed buildings at Sites 1, 2, and 4; does not provide an adequate setback and scale for the proposed dormitory and Center for Athletic Performance at Sites 3 and 4; does not provide information about the noise associated with the new scoreboard at Reeves Field; fails to address how the University's TDM strategies will mitigate the increase in vehicular traffic on campus during a.m. and p.m. peak hours; does not demonstrate how a 3,000 maximum cap on parking will ensure adequate on-campus parking; and does not provide effective controls for undergraduate student growth. (Ex. 150.)

412. SVWHCA further stated that the 2021 Campus Plan was not in compliance with Subtitle X §§ 101.3 and 101.4 because the proposal does not contain sufficient information regarding the possibility of commercial uses being situated at Sites 11 and 15 and whether such commercial uses are consistent with AU's educational mission and located so as to not become objectionable to neighbors, as required by the applicable Zoning Regulations. (Ex. 150.)
413. SVWHCA stated that the 2021 Campus Plan was not in compliance with Subtitle X § 101.8 because it does not provide sufficient information regarding proposed development at Sites 1-5, Sites 11-12, and Site 15 concerning building height, parking and loading, screening, streets, public utility facilities, athletic and recreational facilities, and the overall capacity of proposed campus development. In particular, SVWHCA's statement noted that the 2021 Campus Plan does not indicate with certainty the specific uses for Buildings 1 and 5; does not specify whether Buildings 11, 12, and 15 will include parking and how such parking will be accessed; does not indicate with certainty whether Buildings 11 and 15 will include commercial uses and loading facilities; does not indicate with certainty exact building heights and building height measuring points for its proposed buildings; does not provide sufficient setbacks for the buildings at Sites 3 and 4; and fails to identify where existing tennis and basketball courts will be relocated on campus. (Ex. 150.)
414. SVWHCA also commented that the 2021 Campus Plan was not in compliance with Subtitle X § 101.11 because proposed development at Sites 3 and 4 is inconsistent with the Land Use Chapter of the Comprehensive Plan since such development at the edge of campus will alter the character of Spring Valley and other neighboring residential streets. SVWHCA also stated that the 2021 Campus Plan was not in compliance with Subtitle X § 101.14 because the campus plan is not in harmony with the purpose or intent of the District's zoning standards and will tend to adversely affect neighboring property. (Ex. 150.)
415. Herzstein/Gerson submitted a post-hearing statement dated May 19, 2021, outlining how the 2021 Campus Plan does not satisfy the requirements of Subtitle X §§ 101.1-101.16. (Ex. 154.)
416. Herzstein/Gerson's statement noted that the character, timing, frequency, and duration of the noises generated by activities at Jacobs Field resulted in frequent and objectionable impacts on Herzstein/Gerson's residence at 4710 Woodway Lane, N.W. Herzstein/Gerson's statement described how the University had failed to comply with various conditions in Z.C. Order No. 11-07 regarding mitigation of noise at Jacobs Field, including the construction of a sound barrier wall between Jacobs Field and 4710 Woodway Lane, N.W. As a result, Herzstein/Gerson claimed the 2021 Campus Plan will likely continue to have an adverse impact on neighboring properties in violation of Subtitle X § 101.2 unless further conditions are adopted with respect to the construction of an acoustic barrier and future uses at Jacobs Field. (Ex. 154.)
417. Herzstein/Gerson's statement contended that the 2021 Campus Plan did not provide enough information regarding the acoustic barrier and future uses of Jacobs Field as

required by Subtitle X § 101.8. Furthermore, Herzstein/Gerson's statement asserted that the University's rental of Jacobs Field to third parties constitutes a commercial use, which has not been located in compliance with Subtitle X § 101.3 in such a manner "so that it will not become objectionable to non-university residential neighbors" due to hours of operation, noise, and other operational characteristics not customarily associated with residential use. (Ex. 154.)

418. Herzstein/Gerson stated that the 2021 Campus Plan is not in compliance with Subtitle X § 101.14 because it is not in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. Herzstein/Gerson's statement cited Land Use Policy 2.3.3, which encourages the expansion of university uses in a manner that does not significantly adversely affect the quality of life of residential areas. Herzstein/Gerson stated that Jacobs Field has not been planned, designed, or managed in a way that conforms to Land Use Policy 2.3.3. (Ex. 154.)
419. Herzstein/Gerson's statement noted that the proposed construction of a filming tower on Jacobs Field has not been located so as to minimize objectionable impacts on their residence at 4710 Woodway Lane, N.W., but has rather been situated near the property line with 4710 Woodway Lane, N.W. and on a 15-foot platform that is likely to rise above any acoustic barrier that may be constructed. (Ex. 154.)
420. Herzstein/Gerson further detailed how the proposed conditions included in the Applicant's Post-Hearing Submission are inadequate to mitigate the objectionable noise related to Jacobs Field. (Ex. 154.)
421. Concerned Neighbors submitted a post-hearing statement dated May 19, 2021, which asserted that the 2021 Campus Plan does not satisfy the requirements of Subtitle X §§ 101.1-101.16. Concerned Neighbors' statement reiterated their concerns about the scope and scale of development associated with the 2021 Campus Plan and referred the Commission to written testimony and letters of opposition submitted into the record of this case at Exhibits 36, 89, 84, 85, 86, 90, 130, and 130A. Concerned Neighbors' statement further claimed the Office of Planning did not give their group due consideration in evaluating the scale, setback, and uses of the proposed buildings that abut their community. (Ex. 157.)
422. Concerned Neighbors' post-hearing statement focused on the proposed buildings at Sites 11 and 12 on AU's Southeast Campus. Concerned Neighbors' post-hearing statement stated that the proposed building at Site 11 was not compliant with Subtitle X §§ 101.2, 101.3, 101.4, and 101.8 because the height of the building and scale would overwhelm the visual perspective of Concerned Neighbors' homes across the street given the 60-foot setback, which Concerned Neighbors deemed inadequate. Concerned Neighbors also noted that the 2021 Campus Plan does not identify a specific use for Building 11, but that its prominent corner and street-facing location would likely generate objectionable impacts on neighboring property due to light, noise, pedestrian traffic, and outside gatherings, impacts which are not sufficiently mitigated and addressed in the 2021 Campus Plan. (Ex. 157.)

423. Concerned Neighbors' post-hearing statement also stated that the proposed building at Site 12 did not comply with the criteria of Subtitle X §§ 101.2 and 101.8. In particular, Concerned Neighbors took issue with Building 12's height and scale. Concerned Neighbors also commented that Building 12's use as a student dormitory will also generate objectionable impacts due to noise and light, increased pedestrian and vehicular traffic, and the overall intensity of 24-hour use that is associated with a dormitory building. Concerned Neighbors stated that AU has not provided any plan for mitigating these impacts in its 2021 Campus Plan. (Ex. 157.)
424. Concerned Neighbors' post-hearing statement also cited concerns about the increase in traffic that will be associated with Buildings 11 and 12 as well as the possible underground parking garage that would be built under Building 11. Concerned Neighbors stated that the current description of the underground parking garage and lack of details about traffic mitigation measures result in a failure of the 2021 Campus Plan to satisfy the requirements of Subtitle X § 101.8. (Ex. 157.)
425. Concerned Neighbors' post-hearing statement also expressed concerns about other objectionable conditions associated with the development of Sites 11 and 12 including the possibility of unearthing toxic chemical materials and World War I era munitions at those sites. (Ex. 157.)

Public Meeting of May 27, 2021

426. The Commission held a public meeting on the Application pursuant to notice and convened via Videoconference at 4:00 p.m. on May 27, 2021. (Tr. from May 27, 2021 meeting at p. 1.)
427. The Commission considered a motion filed by SVWHCA (Ex. 136.) seeking to strike or redact portions of Exhibit 78, which is a request submitted by ANC 3E asking the Commission to consider information regarding the residency of a particular SVWHCA representative. The Commission determined the issue of residency was properly raised and resolved and, therefore, did not find any reason for striking Exhibit 78. The Commission denied SVWHCA's motion to strike. (Tr. from May 27, 2021 meeting at pp. 34-40.)
428. The Commission considered a motion filed by Herzstein/Gerson (Ex. 160, 160A.) seeking to strike all portions of the Applicant's Post-Hearing Submission at Exhibit 141 related to alleged noise readings and special events at Jacobs Field. The Commission indicated that the Applicant's Post-Hearing Submission was responsive to the Commission's specific request for information and was in fact informative. The Commission denied Herzstein/Gerson's motion to strike. (Tr. from May 27, 2021 meeting at pp. 34-42.)
429. The Commission considered a motion filed by NLC (Ex. 161, 161A.) seeking to strike certain rebuttal testimony presented by AU, including pages 8-9 of its rebuttal testimony at Exhibit 137A, on the basis that such testimony regarding plans for a screening buffer along University Avenue was improperly submitted and unfairly prejudiced to the opponents' arguments. The Commission stated that NLC's motion was untimely submitted and that there was an opportunity for the parties to discuss the screening buffer at a previous

hearing. Therefore, the Commission denied NLC's motion to strike. (Tr. from May 27, 2021 meeting at pp. 42-45.)

430. After considering and denying the various motions, the Commission proceeded to discuss the 2021 Campus Plan's satisfaction of the Zoning Regulations' campus plan criteria. The Commission remarked that the Zoning Regulations' separation of the campus plan application from related further processing applications allowed the Commission to consider the campus plan holistically, which was a preferable method of review compared to prior experiences with approving the 2011 Campus Plan, in which the two application types were combined into a single application cycle. (Tr. from May 27, 2021 meeting at pp. 45-48.)
431. The Commission agreed that the 2021 Campus Plan met the campus plan standards and would not result in any objectionable impacts on surrounding property that are not capable of being mitigated. The Commission supported the 2021 Campus Plan's overall student enrollment cap and focus on the adverse impacts of student enrollment as opposed to specific caps on undergraduate students. However, the Commission asked the Applicant to submit information summarizing how AU intends to comply with the proposed cap on overall student enrollment. (Tr. from May 27, 2021 meeting at pp. 49-57.)
432. The Commission stated that the 2021 Campus Plan and proposed TDM measures adequately addressed traffic impacts and that specific details regarding the location of parking facilities and traffic flow would be carefully addressed through further processing applications. However, the Commission asked the Applicant to provide a more detailed response to SVWHCA's comments regarding traffic impacts along Massachusetts Avenue and Nebraska Avenue. (Tr. from May 27, 2021 meeting at pp. 57-61.)
433. The Commission discussed the proposed acoustic barrier and the issue of noise at Jacobs Field. The Commission strongly encouraged the Applicant and Herzstein/Gerson to continue discussions regarding the proposed conditions related to Jacobs Field and reach a "higher level of resolution." The Commission asked the Applicant to propose a revised and final set of conditions related to Jacobs Field, including carryover conditions from Z.C. Order No. 11-07. The Commission also asked with Herzstein/Gerson to provide a response to AU's final set of conditions. (Tr. from May 27, 2021 meeting at pp. 61-74.)
434. The Commission addressed AU's request for flexibility to process minor building additions for accessibility-related renovations as modifications of consequence without further processing approval. The Commission was amenable to granting such flexibility, provided that such additions consisted of strictly minor interior renovations that did not affect any building exterior or exterior windows. The Commission asked the Applicant to submit a proposed set of guidelines for the flexibility it is seeking for "minor renovations" for the Commission to review. (Tr. from May 27, 2021 meeting at pp. 75-79.)
435. In a memo to the file following the May 27, 2021 public meeting, the Commission asked Herzstein/Gerson to file a response to the Applicant's proposed final set of conditions regarding Jacobs Field; and all parties to file a response to the Applicant's filing regarding

how it intends to comply with the proposed cap on overall student enrollment and the traffic impacts along Massachusetts and Nebraska Avenues. (Ex. 163.)

Applicant's Supplemental Post-Hearing Submission

436. On June 17, 2021, the Applicant filed a supplemental post-hearing submission (the "Applicant's Supplemental Submission") in response to the Commission's request for additional information at its May 27, 2021 public meeting. (Ex. 165.)
437. The Applicant's Supplemental Submission included a final set of proposed conditions concerning the acoustic barrier and the use of Jacobs Field. The Applicant noted that AU and Herzstein/Gerson both reached mutual agreement on this set of final conditions, which were attached as Exhibit A to the Applicant's Supplemental Submission. (Ex. 165.)
438. The Applicant's Supplemental Submission reiterated the 2021 Campus Plan's commitment to a proposed student enrollment cap of 14,380 students and cited ample support for such commitment in the case record at Exhibits 3, 3C, 6, 10, 13, 56, 77, 87, 109, 116, 135, and 137A and in testimony delivered at the March 22, 2021, March 29, 2021, April 20, 2021, and April 28, 2021 public hearings. The Applicant stated it will comply with this student enrollment cap through its continued enforcement of the 67% undergraduate housing requirement and AU's student conduct policies. (Ex. 165.)
439. The Applicant's Supplemental Submission included guidelines, in the form of a proposed condition, for the types of "minor renovations" which may be processed as modifications of consequence if the Applicant's requested flexibility is granted. The proposed condition limits "minor renovations" to repairs, renovations, remodeling, or structural alterations to facilities identified in the 2021 Campus Plan that are required to meet code requirements and improve accessibility. "Minor renovations" may also include modest increases in gross floor area of no more than 5,000 square feet under the Applicant's proposed language. (Ex. 165.)
440. In response to SVWHCA's concerns about the Applicant's traffic data for Nebraska and Massachusetts Avenues, the Applicant's Supplemental Submission included additional vehicle movement counts, together with the percentage of such counts attributable to AU, at the Tenley Campus and Spring Valley Building. The Applicant stated that the traffic counts and analysis in its CTR have been reviewed and approved by DDOT. The Applicant further noted that SVWHCA's request to see what percentage of traffic attributed to AU has increased or decreased over the last 10 years is not data that the Applicant is required to provide pursuant to the District's updated CTR regulations. (Ex. 165.)
441. The Applicant's Supplemental Submission addressed SVWHCA's suggestion in SVWHCA's Response that the 2021 Campus Plan should incorporate more aggressive TDM measures. In response, the Applicant stated that SVWHCA's position is not supported by evidence in the case record. The Applicant reiterated that it concurs with DDOT's determination that the level of vehicular traffic attributable to AU does not require a more aggressive TDM program than that which the Applicant is already providing. (Ex. 165.)

Responses of Parties in Opposition to Applicant's Supplemental Submission

442. NLC submitted a statement dated June 24, 2021 (“NLC’s Supplemental Response”) in response to the Applicant’s Supplemental Submission. NLC’s Supplemental Response approved of the student enrollment cap and noted the Applicant has reached an agreement with Herzstein/Gerson on the proposed conditions relating to Jacobs Field, but asked the Commission to closely monitor enforcement of those conditions. (Ex. 166.)
443. NLC’s Supplemental Response requested the Commission revise the Applicant’s proposed condition concerning the right to process “minor renovations” as modifications of consequence to substitute the 5,000 square feet limitation on additions with a lower number of square feet. (Ex. 166.)
444. NLC’s Supplemental Response expressed concerns that the traffic data used by DDOT was supplied by the Applicant and asserted that AU’s traffic impact has continued to adversely impact intersections on and near the University campus, despite the Applicant’s arguments to the contrary. (Ex. 166.)
445. SVWHCA submitted a statement dated June 24, 2021 (“SVWHCA’s Supplemental Response”) in response to the Applicant’s Supplemental Submission. (Ex. 167.)
446. SVWHCA’s Supplemental Response criticized AU’s proposed TDM measures as “heavy on process, but light on robust measures to reduce and mitigate traffic impacts and for performance review and evaluation.” SVWHCA stated that AU was ignoring or minimizing the increase in vehicular traffic in the surrounding area over the last 10 years. SVWHCA continued to describe the additional traffic data supplied in the Applicant’s Supplemental Submission as incomplete and missing data points for vehicle access to AU’s Main Campus and its various commercial properties. (Ex. 167.)
447. SVWHCA’s Supplemental Response stated that the Commission cannot properly assess whether the number of students is likely to become objectionable to neighboring property because it has failed to require the Applicant to submit undergraduate enrollment projections for the next 10 years. SVWHCA’s Supplemental Response attached a letter distributed by Wesley Theological Seminary (WTS) indicating WTS’ intentions to construct a building designed as student housing for WTS and AU students. SVWHCA stated that the WTS letter raises concerns about AU’s ability to manage its student enrollment. (Ex. 167.)
448. SVWHCA’s Supplemental Response stated that the Applicant’s proposed condition regarding “minor renovations” be revised to prohibit any change in use of the space and reduce the allowable size of space that could be renovated as part of a modification of consequence from 5,000 square feet to 1,500 to 2,000 square feet. (Ex. 167.)
449. SVWHCA’s Supplemental Response stated that the Commission should have allowed other Parties in Opposition other than Herzstein/Gerson to reply to the portion of the Applicant’s Supplemental Submission concerning the use of Jacobs Field. SVWHCA’s Supplemental Response continued to criticize AU’s failure to comply with existing conditions from the 2011 Campus Plan related to Jacobs Field. (Ex. 167.)

450. Concerned Neighbors submitted a statement dated June 24, 2021 (“Concerned Neighbors’ Supplemental Response”) in response to the Applicant’s Supplemental Submission. (Ex. 168.)
451. Concerned Neighbors’ Supplemental Response states Concerned Neighbors remain concerned about AU’s refusal to place a hard cap on undergraduate student enrollment. (Ex. 168.)
452. Concerned Neighbors’ Supplemental Response opposed the Applicant’s proposed condition language regarding “minor renovations” and stated that 5,000 square feet can be a consequential amount of gross floor area. Concerned Neighbors noted that OP did not support granting “blanket flexibility” for minor renovations in its March 12, 2021 written memorandum (Ex. 56.) and during cross-examination at the March 29, 2021 public hearing. (Ex. 168.)
453. Concerned Neighbors’ Supplemental Response stated that the additional traffic data provided in the Applicant’s Supplemental Submission was incomplete or questionable. In particular, Concerned Neighbors’ Supplemental Response raised concerns about the following: the impact of additional vehicle counts at the intersection of Nebraska Avenue and Rockwood Parkway given the possibility of a parking garage being built on Sites 11 and 12; the 2021 Campus Plan’s failure to adequately address the proposed bifurcation of campus traffic routes and reconfiguration of entrances and implementation of turn restrictions at Fletcher and Glover Gates; questionable Annual Average Daily Traffic data used in the CTR’s conclusions for Nebraska Avenue west of Ward Circle; the CTR’s conservative estimates for regional traffic growth; and the CTR’s limited analysis of local development proposed for the study area.¹⁶ (Ex. 168.)
454. Herzstein/Gerson submitted a statement dated June 24, 2021 (“Herzstein/Gerson’s Supplemental Response”) in response to the Applicant’s Supplemental Submission. (Ex. 169.)
455. Herzstein/Gerson’s Supplemental Response was limited to issues relating to Jacobs Field and expressed support for the proposed set of final conditions stated in the Applicant’s Supplemental Submission, provided the updated conditions are incorporated into the Commission’s decision based upon a review of the entire record of the proceeding. (Ex. 169.)

¹⁶ As noted above in footnote 9, Concerned Neighbors also requested that OP provide a supplement to its report specifically addressing the impacts of proposed Buildings 11 and 12 on neighboring properties. OP never provided the supplement as acknowledged by Concerned Neighbors in its responses at Exhibits 157 and 168 of the case record. It was an oversight on the Commission’s part not to follow up again on this request, and the Commission believes it was an innocent oversight on OP’s part not to provide the supplement. However, the Commission does not believe Concerned Neighbors was at a disadvantage in this proceeding because of this oversight. Quite the contrary, Concerned Neighbors was a party in this proceeding and was afforded all party rights in this proceeding. Further, OP’s report at Exhibit 56 of the case record addressed the proposed setbacks for all buildings proposed on East Campus, including Buildings 11 and 12, and found the proposed setbacks sufficient to mitigate objectionable impacts on neighboring properties.

Public Meeting of July 8, 2021

456. The Commission held a public meeting on the Application pursuant to notice and convened via Videoconference at 4:00 p.m. on July 8, 2021. (Tr. from July 8, 2021 meeting at p. 1.)
457. The Commission considered a motion filed by NLC (Ex. 170) seeking to delay final action on this case given new information about a “cooperative venture” between AU and Wesley Theological Seminary (WTS) that would possibly house AU students at a new WTS dormitory building. The Commission determined that the issue was not directly relevant to the 2021 Campus Plan application presently before the Commission and would be properly addressed in a separate campus plan application to be submitted by WTS. Therefore, the Commission denied NLC’s motion to delay final action. (Tr. from July 8, 2021 meeting at pp. 32-37.)
458. The Commission expressed approval of the agreement reached between the Applicant and Herzstein/Gerson regarding the proposed conditions relating to use of Jacobs Field and the construction of the acoustic sound barrier. (Tr. from July 8, 2021 meeting at pp. 38-42.)
459. The Commission determined that an overall student enrollment cap combined with on-campus housing requirements and other mitigation efforts provided in the 2021 Campus Plan sufficiently addressed any objectionable impacts on neighboring properties due to the number of students without necessitating a further sub-cap on undergraduate student enrollment. (Tr. from July 8, 2021 meeting at pp. 42-44.)
460. With regards to the Applicant’s proposed condition concerning flexibility for certain “minor renovations” required to meet code requirements and improve accessibility, the Commission disapproved of the portion of the Applicant’s proposed language which allows “minor renovations” to include increases in gross floor area of up to 5,000 square feet. The Commission also stated that flexibility for “minor renovations” should not allow the Applicant to change an approved use for a building. Based on the Commission’s comments, the following language was read into the record as a substitute for the Applicant’s proposed language regarding its requested flexibility to process certain “minor renovations” as modifications of consequence:

“The University shall be permitted to repair, renovate, remodel, or structurally alter the facilities identified in its 2021 Campus Plan, as well as construct modest increases in gross floor area that are required to meet code requirements and improve accessibility as a modification of consequence and without further processing approval, provided that the University shall not be permitted to use this process to change the use of a facility as approved by the 2021 Campus Plan, and the Commission shall retain its ability pursuant to Subtitle Z § 703.17, to determine whether the proposed repairs, renovations, alterations, or other construction activities properly qualify as a modification of consequence, pursuant to Subtitle Z § 703, or whether a modification of significance or further processing application is required.”

(Tr. from July 8, 2021 meeting at pp. 44-49, 63-64.)

461. The Commission discussed the Applicant’s proposed TDM measures (Ex. 99.) and determined they were adequate when considering traffic patterns across campus and the surrounding neighborhood holistically. The Commission noted that the Applicant’s TDM measures have the support of DDOT, which “is the voice of authority for the District of Columbia.” (Tr. from July 8, 2021 meeting at pp. 49-55.)

CONCLUSIONS OF LAW

1. The Commission finds that the Application meets the applicable campus plan requirements of the Zoning Regulations, based on the Applicant’s Statement and the additional supplemental documents the Applicant submitted to the case record, in particular Exhibit 145, to reflect the development proposed on the various sites in the overall 2021 Campus Plan. As noted, pursuant to Subtitle X § 101.16, the Commission finds the process of reviewing 10-year campus plans and further processing applications separately effective and recognizes that the purpose of further processing is to provide for a detailed review of the specific objectionable impacts associated with any buildings proposed in the overall plan. Therefore, the approval of the 2021 Campus Plan is not effectively an approval of any future further processing; any future further processing will be separately considered by the Commission. The Commission concludes that the information provided in the case record and during testimony at the public hearings is sufficient for the Commission to find that the objectionable impacts associated with the 2021 Campus Plan are capable of being mitigated. Therefore, the Commission concludes that the Applicant has met the burden of proof for approval of the 2021 Campus Plan.
2. As directed by Subtitle X §§ 100 and 900, the Commission required the Applicant to satisfy the burden of proving the elements of Subtitle X §§ 101, 102, and 901, which are necessary to establish the case for a special exception for a college or university in the R-1-B, RA-1, RA-2, MU-3A, and MU-4 zones.
3. The Commission’s discretion in granting a special exception is “limited to a determination whether the exception sought meets the requirements of the regulation.” (*Glenbrook Road Ass’n v. District of Columbia Bd. of Zoning Adjustment*, 605 A.2d 22, 30 (D.C. 1992).) The Applicant has the burden of showing, in this case, that its proposal meets the requirements enumerated in Subtitle X § 101 as well as satisfying the general standard for special exception approval set forth in Subtitle X § 901. Once the Applicant makes the requisite showing, the Commission “ordinarily must grant [its] application.” (*Id.* (quoting *Stewart v. District of Columbia Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)).)
4. The Commission uses the following standard to determine whether objectionable impacts are present:

“The appropriate test to employ, we have said, is ‘whether the proposed use would significantly increase objectionable qualities over their current levels in the area.’ In approving a campus plan and its implementation, the Commission may impose reasonable restrictions to minimize any adverse impacts on the neighborhood, having ‘due regard for the [u]niversity’s

needs and prerogatives’. Ultimately, the Commission’s task is to achieve a ‘reasonable accommodation . . . between the University and the neighbors’ – an accommodation that does not substantially ‘interfere with the legitimate interests of the latter.’” *Spring Valley-Wesley Heights Citizens Ass’n v. District of Columbia Zoning Commission*, 88 A.3d 697, 705 (D.C. 2013) (citing *Glenbrook Road Ass’n v. District of Columbia Bd. of Zoning Adjustment*, 605 A.2d 22 (D.C. 1992)) and *Spring Valley-Wesley Heights Citizens Ass’n v. District of Columbia Zoning Commission*, 856 A.2d 1174 (D.C. 2004).

5. Based on the Findings of Fact and the record before the Commission, the Commission concludes that the Applicant has satisfied all standards set forth in Subtitle X §§ 101 and 102, as well as the general standard for granting a special exception in Subtitle X § 901; that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map; and that the requested relief will not tend to adversely affect the use of neighboring property.
6. Based on the Findings of Fact and the record before the Commission, the Commission concludes that the Applicant has satisfied the burden of proving that the university use, as described in the 2021 Campus Plan and subject to the Conditions of Approval adopted in this Order, will satisfy the applicable requirements of a university use and is not likely to become objectionable to neighboring property because of noise, traffic, parking, number of students, or other objectionable conditions.

ISSUES RELATED TO NOISE

7. Based on the Findings of Fact and Conditions of Approval adopted in this Order, the Commission concludes that the 2021 Campus Plan is not likely to create objectionable conditions due to noise. The Commission notes the concerns raised by NLC, SVWHCA, WPHC, and Concerned Neighbors regarding the adequacy of the 2021 Campus Plan’s current and proposed buffering/landscaping to mitigate objectionable impacts. However, the Commission finds that through the use of significant setbacks, buffers, design considerations, and student conduct policies, any potential objectionable impacts on neighboring residential properties related to noise caused by existing and proposed uses by the University are capable of being effectively mitigated. The Commission encourages the Applicant to continue to actively monitor and enhance, as needed, the existing landscaped buffers on Campus so that there continues to be adequate coverage for neighboring residential areas. The Commission concludes that the student/campus life uses and the academic and administrative uses within the Campus boundaries have been located to minimize possible noise impacts. Finally, the Commission notes that a separate further processing application must be approved by this Commission before development of any building proposed on a building site in the 2021 Campus Plan; therefore, specific concerns regarding noise impacts associated with every proposed building will be addressed and mitigated with conditions of approval at the time of further processing.
8. In regard to the noise impacts associated with the University’s use of Jacobs Field for intercollegiate sports, for AU-related events, and for Special Events, the Commission finds

the Applicant's arguments regarding the appropriateness of such use to be persuasive. The Commission agrees with its previous analysis of this issue in Z.C. Order No. 11-07G, that use of Jacobs Field for intercollegiate sports, for AU-related events, and for Special Events should continue to be permitted, in accordance with the Conditions of Approval noted below.

9. The Commission recognizes the concerns that have been raised by Herzstein/Gerson regarding the noise impacts on their property from the use of Jacobs Field. The Commission notes that AU and Herzstein/Gerson have worked together to develop a set of final conditions related to the use of Jacobs Field prior to and following the construction of the sound barrier wall, which have been adopted in this Order as Conditions of Approval. The Commission also notes that AU has taken actions to mitigate amplified noise impacts and it will continue to do so in the "pre-wall" period (the period before the acoustic sound barrier is approved and constructed). The Commission concludes that the adoption of the Conditions of Approval in this Order related to the use of Jacobs Field accommodate the needs of Herzstein/Gerson and the needs of AU. However, the Commission also notes Herzstein/Gerson's numerous assertions that AU has historically failed to comply with the conditions related to the use of Jacobs Field and strongly encourages AU to work with Herzstein/Gerson to adhere to the Conditions of Approval in this Order.

ISSUES RELATED TO TRAFFIC AND PARKING

10. The Commission concludes that approval of the 2021 Campus Plan is not likely to create objectionable conditions related to traffic. The application was supported by a CTR that was prepared by the Applicant's transportation engineering experts using a methodology that was reviewed and approved by DDOT. The CTR itself is supported by DDOT. The CTR includes 11 recommendations that will continue to enable AU to effectively minimize its traffic and parking impacts and support the transportation network surrounding the University. The Commission agrees with the CTR's conclusion that the 2021 Campus Plan is not likely to have an objectionable impact on the surrounding transportation network and neighboring properties because of the University's continued implementation of its Transportation Demand Management program coupled with the Conditions of Approval in this Order related to transportation and parking. The Commission notes the Party Opponents have claimed that the CTR is not reliable because its findings were incomplete and used questionable data, but the Commission finds those claims to be unpersuasive and unsubstantiated. The Commission also specifically notes SVWHCA's assertion that an increase in traffic during peak hours from the University's 2011 CTR to its 2021 CTR evidences the need for more aggressive TDM measures from the University. The Commission's determination that the University's TDM program is adequate in addressing traffic impacts is based on the adequacy of the TDM program to address current traffic attributable to the University. Contrary to SVWHCA's assertion, the Commission does not believe evidence that traffic attributable to the University has increased over a ten-year period means the University's TDM is not aggressive enough to address traffic impacts. Moreover, a CTR is an evaluation of current and future transportation operations and does not require a comparison between past and current transportation data. Finally, the Commission notes NLC's assertions that the University's TDM program may be inadequate because of the poor level of service rating at many intersections surrounding

Campus, notably Ward Circle. However, the Commission was persuaded by DDOT's testimony that the University's impacts do not result in an unacceptable level of service rating at any intersection that would require mitigation. Further, the Commission does not find a low level of service rating at certain intersections, such as Ward Circle, to be determinative in the overall effectiveness of the University's TDM program.

11. The Commission concludes that the approval of the 2021 Campus Plan is not likely to create objectionable conditions related to the parking of University-affiliated vehicles on- or off-campus. The Commission finds the information that AU provided regarding its peak parking demand indicative of the fact that the University is effectively managing its parking supply to accommodate demand. The Commission also finds persuasive the University's commitment to maintaining, enhancing, and enforcing the *Good Neighbor Parking Policy*, which effectively deters AU-related parking on neighborhood streets.
12. The Commission supports the University's proposal for a maximum of 3,000 parking spaces provided for AU-related uses in properties that are included in the 2021 Campus Plan. The Commission notes that SVWHCA requested the University be required to maintain a minimum number of parking spaces in the 2021 Campus Plan. The Commission agrees with the Applicant and DDOT that the 3,000 parking space cap, when combined with the University's continued efforts to survey parking utilization, encourage alternative means of transportation, and enforce its *Good Neighbor Parking Policy*, will allow the University to effectively and flexibly manage vehicle trips and parking utilization over the term of the 2021 Campus Plan without necessitating any minimum number of parking spaces.

ISSUES RELATED TO NUMBER OF STUDENTS

13. The Commission concludes that the Applicant's proposed student enrollment maximums are not likely to create objectionable conditions. The Commission notes that the adoption of the 2016 Zoning Regulations has resulted in additional University facilities and reported students being included in the 2021 Campus Plan than were previously included under the prior regulations. The Commission agrees with the Applicant's analysis that the enrollment cap proposed for the 2021 Campus Plan of 14,380 students is appropriate. The Commission finds that this relatively small increase in the student population over the next 10 years, continued enforcement of a substantial undergraduate housing requirement, and the robust student conduct policies discussed in this Order are all effective measures to assure that the number of students does not create objectionable conditions on neighboring properties while balancing the University's needs to adapt to the rapidly evolving dynamics in higher education.
14. The Commission finds the continuation of the requirement that the University maintain a supply of on-campus housing sufficient to make housing available for 100% of its full-time freshman and sophomore students and for 67% of all full-time undergraduates to be an important component of the 2021 Campus Plan application that mitigates impacts based on the number of students. The Commission also concludes that allowing the housing provided by the University through a master lease that is subject to AU residence hall regulations for up to 200 beds at The Frequency Apartments at 4000 Brandywine Street

NW to be considered “on campus” housing for the purpose of calculating the housing percentages noted above is appropriate and is supported by OP, the Partnership, ANC 3D, and ANC 3E. The Commission finds the concerns of the Party Opponents regarding the use of master leased beds to be unpersuasive, as the students who reside in The Frequency Apartments will be subject to the same residence hall regulations applicable to those students who reside in a residence hall on the Main Campus.

15. The Commission also notes that the Applicant has agreed to a condition (Condition No. 17 of this Order) that new student housing projects approved through the term of this 2021 Campus Plan shall not result in the addition of more than 500 beds of on-campus housing to the University’s existing housing inventory, unless the 200 master leased beds at The Frequency Apartments are no longer available or are not considered “on campus” housing for the purpose of calculating AU’s undergraduate student housing requirement. The Commission acknowledges that some of the Party Opponents argued against the amount of housing that could ultimately be constructed on the Campus and finds Condition No. 17 of this Order to be responsive to those concerns.
16. The Commission notes that a number of the Party Opponents (including SVWHCA, NLC, WPHC, and Concerned Neighbors) requested a separate undergraduate enrollment cap. The Commission agrees with the positions of the Applicant, the AU Neighborhood Partnership, ANC 3D, and ANC 3E that a separate undergraduate enrollment cap is not necessary to effectively control the impacts of students on surrounding neighborhoods as long as AU establishes and maintains enhanced policies aimed at handling any objectionable impacts of its proposed buildings and any off-campus effects on the neighborhood. The Commission agrees with ANC 3D that the 67% undergraduate housing requirement along with the enhanced mitigation programs are an appropriate way to directly mitigate any impacts related to the number of students rather than a specific and inflexible undergraduate enrollment cap. The Commission notes that OP did not request that AU be subject to an undergraduate enrollment cap and specifically recommended that flexibility be given to the University to determine the mix of undergraduate and graduate students.
17. The Commission also notes that SVWHCA raised concerns that the Applicant did not provide enrollment projections in the 2021 Campus Plan application materials. The Commission does not find it necessary for the Applicant to submit this information in order for the Commission to determine that the number of students are not likely to create objectionable impacts. The Commission agrees with the analysis of this issue that was presented by the Applicant, the AU Neighborhood Partnership, and ANC 3D. In particular, the Commission concludes that enrollment projections provided during Campus Plan proceedings are non-binding and that projected enrollment numbers provided during previous Campus Plan proceedings have not proven to be particularly accurate over the ensuing ten-year horizons given the rapid nature of changes in higher education, nor are they required by the Zoning Regulations.
18. The Commission does not find that the 2021 Campus Plan is likely to create objectionable conditions related to student behavior. The Commission notes the significant steps that the

University has taken to inform students of their rights and responsibilities in living off-campus. The Commission understands that the University, in consultation with the AU Neighborhood Partnership Student Life and Safety Working Group, will implement an improved off-campus living orientation program. Following the training, students must affirmatively acknowledge that they have fulfilled the training and understand the University's expectations. The Office of Campus Life will track participation and compliance with this program, and students not in compliance may be subject to adjudication under the *Student Conduct Code*. The Commission also notes the University's commitment to work closely with the Partnership and ANC 3D to monitor the effectiveness of its enhanced program and to seek adjustments as possible improvements become apparent. The Commission believes that this enhanced program will mitigate the objectionable impacts that have been the subject of complaints from neighbors in the past.

19. The Commission similarly concludes that the proposed employee cap of 3,350 employees is not likely to create objectionable conditions on the use of neighboring property. The Commission notes that this new cap reflects no change from the employee cap established in the 2011 Campus Plan, when adjusted to count employees who work at the properties that will be included in the 2021 Campus Plan pursuant to the 2016 Zoning Regulations.

ISSUES RELATED TO OTHER OBJECTIONABLE IMPACTS

20. In regard to the new development proposed in the 2021 Campus Plan, the Commission concludes that all of the projects are appropriate for further processing applications. The Commission notes that during the further processing applications for all of the proposed sites (but in particular the proposed development of Sites 2, 3, 4, 11, 12, and 15) the Applicant will be required to demonstrate that the proposed development will comply with the special exception criteria that no objectionable conditions are likely to occur as a result of the development of each specific building, as designed within the general parameters approved by the Commission in this Order. The Commission recognizes the concerns raised by the Party Opponents regarding the potential impacts that some of the development sites could potentially have on their properties, including specific impacts on lighting, air, noise, loading, and vehicle circulation. The Commission believes that those concerns will be more appropriately addressed during the further processing application for each of those development sites, when the specific attributes of those buildings will be presented to the Commission and to the community.
21. The Commission notes the support that the AU Neighborhood Partnership received from ANC 3D and from ANC 3E. The Commission also notes the role that the CLC played in the review of the 2021 Campus Plan. The Commission finds that the Applicant's proposal to continue to work with both the Partnership and the CLC, as noted in Condition Nos. 3 and 4 of this Order, to be appropriate. The Commission encourages the CLC to continue fostering conversations between the University and the neighborhoods surrounding AU's Campus so that community concerns can be raised and the University's compliance with the 2021 Campus Plan can be effectively monitored. The Partnership should also carry on its function of reporting campus-related issues to the public and developing solutions based on information gathered from the community and the CLC. While the Commission acknowledges the concerns that were raised by some of the Party Opponents regarding the

impact that the operations of the Partnership had on the CLC, the Commission will not state its preference for any particular community input process as long as the CLC and the Partnership are capable of identifying objectionable impacts so that they can be properly addressed or mitigated, which has been accomplished in this case.

22. Based on the Findings of Fact and evidence in the record, the Commission concurs with the Applicant and OP that approval of the 2021 Campus Plan, as subject to the Conditions of Approval adopted in this Order, is not inconsistent with the Comprehensive Plan. The Main Campus and the Tenley Campus are both located in the Institutional Land Use Category on the Future Land Use Map. As noted in the Applicant's Statement and the OP report, the 2021 Campus Plan furthers many policies of the Comprehensive Plan, including the Citywide Elements and Rock Creek West Area Elements, without threatening the character of the residential neighborhoods. The Commission notes OP's proposed requirement that in all further processing applications in which additional retail uses are provided, the University must provide an analysis of the existing campus retail uses and the necessity for additional retail uses as part of its further processing application for such building. The Commission agrees with this requirement and has included it in Condition No. 8 of this Order below. The Commission believes that this Condition will help protect the character of the surrounding residential neighborhoods and adequately addresses the concerns raised by some Party Opponents, including WPHC, that the location of retail uses in the 2021 Campus Plan could generate objectionable impacts on the surrounding neighborhood.

Special Exception Approval for University Use in Low-Density Mixed Use Zones

23. Subtitle X § 102.1 requires that any property located in a low-density mixed use zone (which includes the MU-3 and MU-4 zones) used by a university or college for academic and administrative uses shall be permitted as a special exception, subject to review and approval by the Commission. The Applicant is requesting that its continued use of the properties located at 3201 New Mexico Avenue, N.W. (located in the MU-3A zone), 4801 Massachusetts Avenue, N.W. (located in the MU-4 zone), and 4200 Wisconsin Avenue, N.W. (located in the MU-4 zone) be reviewed and approved as part of the 2021 Campus Plan. Based on the Findings of Fact and evidence in the record, the Commission concludes that the Applicant has satisfied the burden of proving that the university use in these properties, as described in the 2021 Campus Plan and subject to the Conditions of Approval adopted in this Order, will satisfy the special exception requirements. The Commission agrees that by expanding the scope of the 2021 Campus Plan to include these properties, the 2021 Campus Plan provides a more comprehensive understanding of the University's activities in the University buildings near the Main and Tenley Campuses and the student and employee populations that work and study at the locations and their impacts on the surrounding properties.

“Great Weight” to the Recommendations of OP

24. Pursuant to § 13(d) of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001)) and Subtitle Z § 405.8, the Commission must give “great weight” to the recommendations of OP. (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1086 (D.C. 2016).)

25. OP submitted a written report recommending approval of the 2021 Campus Plan (Ex. 56.), subject to certain conditions all of which the Applicant has fully addressed. The Commission finds persuasive OP's recommendation that the Commission approve the Application and therefore concurs in that judgment.

“Great Weight” to the Written Reports of ANCs 3D and 3E

26. Pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) and Subtitle Z § 406.2, the Commission must give “great weight” to the issues and concerns raised in the written report of the affected ANC. To satisfy this great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (D.C. 1978).)
27. ANC 3D submitted a written report recommending approval of the 2021 Campus Plan. (Ex. 10.) ANC 3D subsequently filed an additional written report approving the testimony of Commissioner Chuck Elkins at the March 29, 2021 public hearing. (Ex. 118A1.) The Commission finds persuasive ANC 3D's recommendation that the Commission approve the Application and therefore concurs in that judgment.
28. ANC 3E submitted a written report recommending approval of the 2021 Campus Plan. (Ex. 6.) The Commission finds persuasive ANC 3E's recommendation that the Commission approve the Application and therefore concurs in that judgment.

DECISION

In consideration of the record and the Findings of Fact and Conclusions of Law herein, the Zoning Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the campus plan application, subject to the following guidelines, conditions, and standards:

Term and Scope

1. The 2021 Campus Plan will be approved for a term of 10 years beginning with the effective date of this Order as indicated below.
2. The approved 2021 Campus Plan boundary shall include the Main Campus (including the area known as East Campus), the Tenley Campus, 4801 Massachusetts Avenue, N.W., 4200 Wisconsin Avenue, N.W., and 3201 New Mexico Avenue, N.W. as shown in Exhibit A of the American University *2021 Campus Plan*. (Ex. 3A.) For the purposes of these conditions, all references to “on campus” include Main Campus, Tenley Campus, 4801 Massachusetts Avenue, N.W., 4200 Wisconsin Avenue, N.W., and 3201 New Mexico Avenue, N.W.

Community Engagement

3. The University shall continue to work with community representatives to maintain the Community Liaison Committee created in the 2001 Campus Plan, with the enhancements to the composition, structure, purpose, and leadership proposed by the University for the 2011 Campus Plan, for the purpose of fostering consistent 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 Community Liaison Committee be composed of an equal number of representatives of the University and the community and meet as necessary, but at least quarterly; separate meetings may be held to discuss matters of particular interest to the Main Campus or Tenley Campus or other campus locations, if desired. Upon request, the University shall provide timely data relevant to Campus Plan issues to the Community Liaison Committee, provided that the data is not confidential or overly burdensome to produce.
4. The University shall continue to work with the American University Neighborhood Partnership, a joint forum between AU and leaders in the communities surrounding the University that is focused on improving University and neighborhood relations through discussion, information sharing, and problem-solving. The Partnership shall be co-chaired by a member of the University's senior leadership and a neighbor leader who shall both serve on the Partnership Steering Committee. The Steering Committee is comprised of University administrators and representatives of community organizations and ANCs who were signatories to the March 18, 2018 letter submitted to and recognized by the Commission expressing the intent and vision of the Partnership (specifically Fort Gaines Citizens Association, Spring Valley Neighborhood Association, Ward 3 Vision, Westover Place Homes Corporation, ANC 3D, and ANC 3E). The Partnership is supported by working groups that meet regularly to address key issues of shared concern (i.e., Facilities Planning, Student Life and Safety, Transportation and Parking, Engagement and Communications, and Data and Metrics). Each working group has a community and University co-chair, and members include neighborhood residents, AU administrators, staff, faculty, students, and consultants.

Student Enrollment and Employee Population

5. Student enrollment (headcount) shall not exceed 14,380, including every University student on campus including full-time, part-time, foreign, certificate/non-degree, single course, night programs, and executive program students. The number of students enrolled in courses at the Tenley Campus (including but not limited to Washington College of Law students) shall not exceed 2,000 students. Enrollment shall be determined annually on a headcount basis and shall be reported to the CLC and AU Neighborhood Partnership.
6. The number of University employees shall not exceed 3,350 employees.

Development Plan and Campus Character

7. Campus facilities may, from time to time, be used for conferences; however, any purpose-built conference facility proposed to be constructed by the University on campus shall

require amendment of the Campus Plan and specific approval of the conference-facility use through the special exception process.

8. Following review with the Partnership Facilities Planning Working Group and discussion with members of the community, the University shall submit to the Commission for further processing review each individual request to construct a building or structure described in the 2021 Campus Plan. Along with each request, the University shall submit information as to how this building or structure complies with the 2021 Campus Plan and addresses project impact, particularly buffering, setbacks, visual impacts, and traffic, as applicable. With respect to any proposed building on the Main Campus (including East Campus) that includes additional retail uses, the University shall provide an analysis of the existing campus retail uses and the necessity for additional retail uses as part of its further processing application for such building.
9. 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 Energy and the Environment (DOEE) or other appropriate agency, the Army Corps of Engineers (Baltimore Office), and the U.S. Environmental Protection Agency, Region 3, that the University intends to undertake such activities.
10. No special exception application filed by the University for further processing under this Campus Plan may be granted unless the University proves that it has consistently remained in substantial compliance with the conditions 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 by, or issued to, the University for any University building or use approved under this Campus Plan, and may result in the imposition of fines and penalties pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, D.C. Official Code §§ 2-1801.01 to 2-1803.03 (2001).
11. Within the 10-year term of this 2021 Campus Plan, the University shall undertake the following actions in support of the preservation of historic campus resources:
 - (a) Research and document the University's original campus plan. AU is one of several District universities, along with Catholic, Trinity, and Gallaudet, that benefited from campus planning by the pre-eminent Olmsted landscape architecture firm. This effort should include exploration of the archives available to the public at the Frederick Law Olmsted National Historic Site in Brookline, Massachusetts (according to the *Master List of Design Projects of the Olmsted Firm, 1857-1979*, there are 23 plans for the campus and correspondence dating from 1891 to 1897 in that archive);
 - (b) Maintain and expand online historical information in the University's archives. The University's substantial online public information resource, American University Digital Research Archive (AUDRA), provides informative historical and visual and

historical documentation of the University's history, easily accessible to students and researchers;

- (c) Complete a comprehensive survey, documentation, and evaluation of Main Campus buildings, structures, and landscape features. This survey should be conducted in coordination with the Historic Preservation Office and should include research and evaluation overseen by qualified historic preservation professionals using the nationwide federal historic preservation standards issued by the Department of the Interior. Such a survey could also provide academic opportunities for students in the University's public history program. Results of the survey should be made available to the public; and
 - (d) Adopt and implement a schedule for nominating eligible historic resources to the D.C. Inventory of Historic Sites and National Register of Historic Places. The University should use the findings of the campus survey to nominate the eligible properties on the Main Campus for historic designation. This should occur before any proposed development affects such features and, in any case, within the 10-year period of the 2021 Campus Plan.
12. The University shall be permitted to repair, renovate, remodel, or structurally alter the facilities identified in its 2021 Campus Plan, as well as construct modest increases in gross floor area that are required to meet code requirements and improve accessibility as a modification of consequence and without further processing approval, provided that the University shall not be permitted to use this process to change the use of a facility as approved by the 2021 Campus Plan, and the Commission shall retain its ability pursuant to Subtitle Z § 703.17, to determine whether the proposed repairs, renovations, alterations, or other construction activities properly qualify as a modification of consequence, pursuant to Subtitle Z § 703, or whether a modification of significance or further processing application is required.

Student Housing and On-Campus Life

13. The University shall maintain a supply of on-campus housing sufficient to make housing available for 100% of its full-time freshman and sophomore students and for 67% of all full-time undergraduates. Housing provided by the University through a master lease that is subject to AU residence hall regulations for up to 200 beds at The Frequency Apartments at 4000 Brandywine Street, N.W. may be considered "on campus" housing for the purpose of calculating the housing percentages noted above through the term of this Campus Plan. The University will also be able to continue to use 330 on-campus triples in the calculation of the number of beds that is required to make available to full-time undergraduate students through the term of this 2021 Campus Plan.
14. No additional or expanded master leases to house students off campus shall be allowed for the life of the 2021 Campus Plan.
15. All residence halls may be occupied by all levels of undergraduate and graduate students with the exception of Cassell Hall, Nebraska Hall, and all East Campus residence halls,

which may only be occupied by sophomores, juniors, seniors, or graduate students. The University shall continue to enforce its residence hall regulations in all University-provided housing.

16. The area of the Main Campus identified as East Campus (bounded by New Mexico Avenue, N.W.; Nebraska Avenue, N.W.; Massachusetts Avenue, N.W., and Westover Place) shall contain a maximum of 590 beds for undergraduate students.
17. New student housing projects approved through the term of the 2021 Campus Plan shall not result in the addition of more than 500 beds of on-campus housing to the University's existing housing inventory, unless the 200 master leased beds described in Condition No. 13 are no longer available or are otherwise not considered "on campus" housing for the purpose of calculating the undergraduate student housing requirement, in which case new student housing projects approved through the term of the 2021 Campus Plan shall not result in the addition of more than 700 beds of on-campus housing.

Jacobs Field

18. With respect to the William I. Jacobs Recreational Complex (hereinafter "Jacobs Field"), Condition Nos. 18-42 shall govern until such time as the Commission modifies Condition Nos. 18-42 of this Order relating to Jacobs Field after the University (a) constructs an acoustical sound barrier wall pursuant to a further processing application to be filed in accordance with the conditions in this Order, (b) evaluates the actual sound mitigation benefits of the constructed barrier with respect to noise at 4710 Woodway Lane, N.W., and (c) provides notice to the owners of the property at 4710 Woodway Lane, N.W. Any such application for modification shall be submitted to the Commission with specific information about the relief sought and the University's support therefore.
19. The University shall design an acoustical sound barrier wall within six months after issuance of this Order of approximately 15 feet in height and approximately 360 feet in length for installation at or near the current fence line between Jacobs Field and 4710 Woodway Lane, N.W. The wall must be designed and approved by acoustic engineers based upon scientific standards and modeling to reduce current sound levels at 4710 Woodway Lane, N.W., in consultation with the owners of 4710 Woodway Lane, N.W. and their acoustic engineers. The consultation process shall include the following:
 - (a) The sound engineers for the University will consult with the sound engineers for the owners of 4710 Woodway Lane, N.W. in advance regarding the dates, times, and methods for gathering the data necessary for designing and evaluating a future acoustical sound barrier wall near Jacobs Field, including the methods and standards for determining the likely and/or desired effectiveness of an acoustical sound barrier wall to mitigate objectionable noise at different locations of the 4710 Woodway Lane, N.W. property, and the contemplated characteristics and specifications of the barrier;
 - (b) The University shall provide the owners of 4710 Woodway Lane, N.W. and their acoustics experts with reasonable access to Jacobs Field for conducting testing and evaluation of noise from Jacobs Field;

- (c) The sound engineers for the University will share all sound data that they collect and/or analyze relating to Jacobs Field with the sound engineers for the owners of 4710 Woodway Lane, N.W., including information regarding the locations where such data was collected, the sources of noise, the dates on which the data was collected, the events occurring on the field at the time of data collection, typical noises that were not occurring at the time of collection, and peak data (not simply averaged data);
 - (d) The sound engineers for the University will share all of their modelled results, analyses, and assumptions in a timely manner with the acoustics engineers for the owners of 4710 Woodway Lane, N.W. so that views, opinions, and suggestions can be discussed and adequately considered before any filings by the University with the Commission or DCRA;
 - (e) The University will share and disclose all details regarding the proposed design of the acoustical sound barrier wall with the owners of 4710 Woodway Lane, N.W., including the barrier's location, height, length, materials, and specifications, and shall increase the height and length of 15 feet and 360 feet respectively after consultation with the owners of 4710 Woodway Lane, N.W. if the aforementioned acoustic studies indicate that such changes are likely to increase the noise mitigation benefits of the sound wall to an extent that reasonably justifies said increases in height and/or length;
 - (f) The University will share plans and drawings of the acoustical sound barrier wall with the owners of 4710 Woodway Lane, N.W. at least sixty (60) days before the University files for further processing, building permits, or modification of the Campus Plan relating to the acoustical sound barrier wall and/or any other changes relating to Jacobs Field and conditions associated therewith; and
 - (g) The University will disclose in advance all plans and proposals to the owners of 4710 Woodway Lane, N.W. regarding the likely impact of the acoustical sound barrier wall upon existing trees and shrubs near the location of the future acoustical sound barrier wall and contemplated mitigation measures.
20. The University shall apply for further processing within six months after issuance of this Order and shall file for a building permit for construction of the acoustical sound barrier wall within six months after approval by the Commission of the further processing request. The Commission expects the University to construct the acoustical sound barrier wall expeditiously after issuance of the building permit.
21. The University shall not apply for any other further processing requests, except for other athletic field requests (such as the construction of the filming tower, Reeves Field scoreboard replacement, and field turf replacement) which can be included with the acoustical sound barrier wall further processing application, before the acoustical sound barrier wall is submitted for further processing.

22. The University shall minimize damage to mature trees in the area of the future acoustical sound barrier wall through placement and design of the wall, and shall restore the landscaped buffer, to the extent feasible, after construction of the acoustical sound barrier wall.
23. The University's sound engineers shall test the actual mitigating effects of the acoustical sound barrier wall after the wall is constructed, and shall submit those results to the Commission and the owners of 4710 Woodway Lane, N.W. before any Commission conditions on field usage and noise are modified and before the University undertakes any material changes to the design or usage of Jacobs Field that would increase noise to nearby residential properties. If the University intends to apply for modification of any conditions in this Order relating to Jacobs Field based upon construction of the acoustical sound barrier wall or for any other reason, then the University's acoustic engineers shall develop a science-based assessment of the barrier's actual sound mitigation effects throughout the 4710 Woodway Lane, N.W. property. The assessment shall evaluate all likely and reasonably anticipated sources of noise at Jacobs Field during the remainder of the 2021 Campus Plan and any other noise mitigation measures that could further reduce objectionable noise. Without limitation, the analyses shall address:
 - (a) The anticipated noise mitigation benefits of the acoustical sound barrier wall with respect to all areas on the 4710 Woodway Lane, N.W. property and all likely sources of noise from Jacobs Field;
 - (b) The performance measures or standards adopted by the University to define an adequate or successful mitigation outcome;
 - (c) The noise impacts of any proposed changes to usage of Jacobs Field, specifying the contemplated uses with particularity;
 - (d) The noise impacts of any other proposed changes at Jacobs Field that would affect the sources of noise or the locations where noises are generated at and near Jacobs Field;
 - (e) The noise impacts from field usage after construction of the acoustical sound barrier wall at different locations on the property at 4710 Woodway Lane, N.W., including outdoor sites throughout the property and elevated locations at the house;
 - (f) Any recommendations to further reduce the adverse impacts of amplified, mechanical, and equipment noise (including but not limited to speakers, the shot clock, air horn, and maintenance equipment); and
 - (g) The University shall share all of its acoustic engineer's data, methodologies, analyses, reports, and assumptions with the 4710 Woodway Lane, N.W. owners at least 60 days before the University applies for any modification. If the 4710 Woodway Lane, N.W. owners promptly request a mediation regarding the contemplated modification or changes relating to Jacobs Field, then the University shall participate in mediation with the 4710 Woodway Lane, N.W. owners before

applying for any modification. The mediator shall be selected by both parties and the University shall pay the mediator's fees.

24. With respect to the sources of amplified noise from Jacobs Field (including but not limited to speakers for amplified announcements and amplified music, the shot clock and two air horns), the following conditions shall apply:
- (a) All speakers, the shot clock and the two air horns shall be at ground level;
 - (b) All speakers for the sound system shall be positioned so that they face away from 4710 Woodway Lane, N.W. and direct sound away from that property;
 - (c) Air horns and the shot clock shall not face towards 4710 Woodway Lane, N.W.;
 - (d) The sound system shall have a built-in limiter to limit the overall signal level to the speakers;
 - (e) Volume controls on the speakers shall be subject to fixed limits determined jointly by the sound engineers for the University and the owners of 4710 Woodway Lane, N.W. within 90 days after the effective date of this Order at a volume that does not produce objectionable noise at 4710 Woodway Lane, N.W.;
 - (f) The volume of sound from the air horns and short clock will be reduced to less objectionable levels;
 - (g) Within 90 days after the effective date of this Order, the location for each speaker, shot clock and air horn shall be determined jointly by acoustic engineers for the University and the owners of 4710 Woodway Lane, N.W. with the goal of distributing sound more evenly so that amplified noise is less objectionable at 4710 Woodway Lane, N.W.; and
 - (h) The selected locations for the speakers shall be fixed and/or marked at the designated locations (so that the speakers, shot clock, and air horns will be situated in the proper places by users of Jacobs Field).
25. The University shall:
- (a) Monitor all amplified noise from Jacobs Field in accordance with the specifications of 20 DCMR §§ 2901, 2902, and 2903, as amended, including but not limited to amplified sound generated before and during intercollegiate games and all special events;
 - (b) Obtain and record sound readings during all amplified events, including average and peak data; and

- (c) Provide the owners of 4710 Woodway Lane, N.W., the Community Liaison Committee (CLC), and the AU Neighborhood Partnership with all such reports and data on a quarterly basis.
26. Until such time as new conditions are adopted by the Commission, if any, pursuant to an application to modify this 2021 Campus Plan following construction of an acoustical sound barrier wall near Jacobs Field, the University shall not use amplified sound at more than five special events per year, and the University shall not use amplified music prior to any NCAA events.
27. The University shall not permit particularly objectionable sounds from objects, machines, instruments, and devices such as bullhorns, cowbells, other devices that are used by spectators, portable sound systems that are unrelated to the University's official sound system at Jacobs Field, musical instruments, and other similarly objectionable sources of noise.
28. The University shall limit usage of traditional shot clocks and air horns to those required by official NCAA and Patriot League rules for intercollegiate varsity matches. Less objectionable noises may be used during practices and scrimmages to simulate such sounds.
29. If the owners of 4710 Woodway Lane, N.W. or any other neighbor near Jacobs Field contends in writing that the University is systematically and/or recurrently violating noise restrictions relating to Jacobs Field, including but not limited to any applicable noise ordinances and/or any conditions in this Order, then the University shall promptly investigate the allegations and provide a written report to the complaining neighbor, the CLC, and the AU Neighborhood Partnership with any supporting data, findings, and proposed corrective measures. If the complaining neighbor finds the report and any proposed corrective measures inadequate or unacceptable, then the University shall participate in a mediation at which a senior member of the University's administration shall participate. The mediator shall be selected by both parties and shall be compensated by the University. This process shall not be a prerequisite for the filing of any complaints or enforcement actions with applicable governmental officials.
30. The University will not use Jacobs Field at night or for a third varsity sport.
31. Jacobs Field shall not be used on Sunday before 12:00 p.m., after 8:00 p.m. or dusk (whichever is earlier) or before 8:00 a.m., except that Jacobs Field may also be used by the University's student-athletes for unamplified practices on days other than Sundays during daylight between 7:00 a.m. and 8:00 a.m. No amplified noise shall be used on Jacobs Field before 8:00 a.m. or after 6:00 p.m. except for the completion of NCAA games with afternoon start times that may, on rare occasions, extend after 6:00 p.m.
32. The University shall be permitted to use Jacobs Field for "University Events," defined as intercollegiate athletic events involving a University team, University club sports, University Greek life sports, University intramural sporting events, University-related athletic activities (such as ROTC training and informal University athletics events),

sporting camps sponsored by the University, use by children enrolled in AU's Child Development Center, and athletic events with local public schools. All other uses of Jacobs Field shall be considered "special events" (as defined below).

33. The University shall maintain key-access gates between Jacobs Field and University Avenue. These gates shall be available only to neighbors to enter and exit University grounds, and shall not be used by University personnel or students to exit or enter University property.
34. The University shall not install roads or parking lots in the area between Jacobs Field and the property line abutting neighboring properties to the west of Jacobs Field.
35. The University shall maintain the existing landscape buffering between Jacobs Field and the property line abutting neighboring properties to the west of Jacobs Field, for two years after the construction of the acoustical sound barrier wall.
36. The University shall maintain the existing fence, which is six or seven feet tall, adjacent to neighboring properties to the west of Jacobs Field, except that the fence may be removed temporarily during actual construction of the acoustical sound barrier wall and thereafter a fence shall be installed that connects to each end of the acoustical sound barrier wall such that a single, continuous barrier remains along the western Main Campus boundary.
37. In addition to other conditions limiting field usage to certain times of day, the University shall not permit use of Jacobs Field before dawn or after dusk, and shall not illuminate Jacobs Field for evening or night uses. No night uses shall be permitted at any time.
38. The University shall make its athletic schedules publicly available via the University's website, and shall use its best efforts at the beginning of each academic year to publicize the schedule of athletic events. For athletic events scheduled less than thirty (30) days ahead, the University shall make all reasonable efforts to publicize the athletic events as soon as possible. In addition, the University shall provide the 4710 Woodway Lane, N.W. owners with monthly schedules no later than the fifth day of each month accurately describing all events that will occur on Jacobs Field during the next calendar month, including the date, time, user/event, anticipated duration of the event, and whether amplified sound will be used.
39. The University shall implement the following measures to limit the noise impacts of activity on Jacobs Field on neighboring residential properties:
 - (a) Pursuant to playing rules and requirements of specific sports and subject to other conditions herein, a game management sound device (such as a sound that makes players and referees aware of substitutions, the end of period, etc.) may be used, but shall comport with other conditions herein;
 - (b) Amplified sound may be used only for intercollegiate games involving the University's athletes and five special events per year not to exceed a total number of 40 each year; and

- (c) The University shall provide owners of neighboring properties the telephone numbers for appropriate representatives (e.g., staff of its University Police Department or Community Relations or Dean of Students offices) to address concerns regarding noise on Jacobs Field.
40. To the extent that Jacobs Field is used on occasion for a special event (i.e., not a University Event as defined above), such as graduation, homecoming, picnics, receptions, or charitable events (such as the Juvenile Diabetes Research Foundation's annual Real Estate Games), or exhibitions, the University shall comply with the following requirements:
- (a) Usage of Jacobs Field for Special Events is limited to a total of 12 days per year;
 - (b) Special Events may use amplified sound a maximum of five times per year;
 - (c) The University shall provide notice of Special Events to residents in the vicinity of Jacobs Field, on Woodway Lane, and on University Avenue, as well as to any other persons who request notice or whose names are supplied to the University. Notice shall be provided in writing or by email as far in advance as possible, but generally at least 30 days before an event;
 - (d) 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; and
 - (e) The University shall observe the following guidelines relating to Special Events on the athletic fields:
 - i. Special Events shall be conducted only between the hours of 8:00 a.m. and 8:00 p.m. or dusk (whichever is earlier);
 - ii. No amplified noise shall be permitted after 6:00 p.m.;
 - iii. Amplified sound for Special Events on Jacobs Field shall be permitted only with permission from the Office of Student Affairs. All speakers must be at ground level and facing away from 4710 Woodway Lane, N.W. No bullhorns, cowbells, or similar devices shall be permitted;
 - iv. No vehicles may park on the western side of Jacobs Field. In no event shall service vehicles park next to adjacent residences;
 - v. If an unauthorized Special Event (an event not scheduled by the University or in excess of the annual cap for Special Events) occurs, neighbors may contact designated University staff, who shall be reachable during all Special Events, and all amplified noise shall be terminated immediately without exception or delay; and

- vi. Noise 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 Special Event.
41. No special exception application filed by the University for further processing under this Campus Plan and no applications for modification of conditions in this Campus Plan with respect to Jacobs Field may be granted unless the University proves that it has consistently remained in substantial compliance with the conditions set forth in this Order, and consistently and substantially complied with all conditions relating to Jacobs Field. 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 by, or issued to, the University for any University building or use approved under this Campus Plan, and may result in the imposition of fines and penalties pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, as amended.

Off-Campus Life and Neighborhood Quality of Life Efforts

42. The University shall continue to provide a reporting mechanism to address issues and concerns raised by members of the community in order to effectively implement and enforce the terms of the *Student Code of Conduct*, which applies to student behavior both on and off campus, and shall also implement the enhanced *Good Neighbor Guidelines* that have been developed in consultation with the AU Neighborhood Partnership Student Life and Safety Working Group to address off-campus conduct by students living in residential neighborhoods adjacent to campus. Over the term of the 2021 Campus Plan, the University will take a number of proactive steps to address off-campus student behavior, including the following:
 - (a) To better inform and educate students who choose to live off-campus of their rights and responsibilities, the University, in consultation with the AU Neighborhood Partnership Student Life and Safety Working Group, will implement an improved off-campus living orientation program that will include an online training module developed in consultation with the AU Neighborhood Partnership Student Life and Safety Working Group that must be completed by students living in the 20016 or 20008 zip codes. Both online and in-person training sessions will include the *Pledge to Uphold Community Standards*, detailing the responsibilities and obligations associated with living off-campus, which will be developed in consultation with the AU Neighborhood Partnership Student Life and Safety Working Group. Following the training, students must affirmatively acknowledge that they have fulfilled the training and understand the University's expectations. The Office of Campus Life will track participation and compliance with this program, and students not in compliance may be subject to adjudication under the *Student Conduct Code*;
 - (b) The University will continue to periodically distribute a letter to students from the Office of the Dean of Students that specifically reminds them of the University's expectation that they maintain the condition of their property and manage the behavior of their guests. It will also state that the University expects students to

know, understand and abide by the Disorderly Conduct Amendment Act of 2010 and the District of Columbia Noise Control Act of 1977, both of which address noise disturbances. Students will also be informed of the details of both ordinances during the orientation programs;

- (c) To remain engaged with the broader residential community, the University will continue its practice of making annual or more frequent visits to major apartment complexes and condominium communities where students live;
- (d) The University's Office of Community Relations will create, in consultation with the AU Neighborhood Partnership Student Life and Safety Working Group, a neighbor education tool that informs residents of the University's strategies for student training and includes resources and directions on how to contact the University and/or file a complaint in the event of an undesirable incident; and
- (e) The University will create and distribute, in consultation with the AU Neighborhood Partnership Student Life and Safety Working Group, an *AU Eagle Living Guide* that will include good neighbor tips, resources, and a copy of the *Pledge to Uphold Community Standards*.

Transportation and Parking

43. The University shall continue to implement the following TDM measures to minimize any adverse impacts of University-affiliated traffic and parking:

- (a) **TDM Coordinator:** AU will maintain the TDM Coordinator position as the primary AU staff lead for managing the AU TDM program and ensuring that all DDOT reporting requirements linked to parking and TDM are met;
- (b) **AU Shuttle:** The university will continue to operate its shuttle routes between the Main Campus and the Tenleytown-AU Metro station, Tenley Campus, and the Spring Valley Building. Ridership of the well-utilized shuttle program exceeded 1.2 million in calendar 2018 (prior to the operational impacts associated with COVID-19);
- (c) **AU/WMATA U*PASS Program:** The U*PASS program allows for unlimited student rides on all MetroRail and MetroBus routes throughout the region, significantly reducing the number of vehicle trips to campus by students. AU will maintain this program to the extent it continues to be made available by WMATA;
- (d) **Virtual Self-Park:** As campus parking demand returns to pre-COVID levels, AU will pursue opportunities to increase the availability and appeal of Virtual Self-Park for all AU campus commuters. Today, this option is attractive for employees with infrequent campus commutes. To realize more of the TDM potential of this pricing approach, the TDM Coordinator will work to phase out the university's monthly parking permit program for employees and transition to an expanded Virtual Self-

Park application for all AU affiliates. In addition, AU will explore opportunities to provide Virtual Self-Park options to neighbors and guests;

- (e) **Building Upon Telework Gains:** The majority of AU employees have been working remotely for the past several months as a result of operational impacts brought about by COVID-19. While this situation was created by the pandemic, the tools, skillsets, and protocols developed to make this work for AU will position remote working, or telework, as a powerful TDM tool for AU going forward. Due to the impact of COVID-19, WMATA temporarily suspended the U*PASS program in 2020. Not only can telework significantly reduce campus-based parking and travel demand, but it can also reduce travel activity between campus locations and consequent parking demand. The TDM Coordinator will continue to track employee interest in maintaining telework as part of their AU employment beyond the current period of restricted campus access. The Coordinator will also monitor emerging best practices and innovative approaches to make telework both effective and attractive, to better realize its potential to reduce AU commute-based travel and parking demand;
- (f) **Pre-Tax Transit Benefit:** This benefit, which allows AU employees to allocate up to \$270 per month pre-tax for qualified transit costs, will be maintained as a long-standing AU employment benefit;
- (g) **TransitScreen Technology:** AU will continue to utilize transit screen technology to provide real-time availability/arrival information on several multimodal campus mobility options, including Capital Bikeshare, the AU Shuttle, RideShare, MetroBus, and MetroRail. This information is currently available on several screens located around the campus and via a mobile phone application;
- (h) **Multi-modal Travel App:** AU will maintain its multi-modal travel app providing members of the university community with real-time information on various mobility options;
- (i) **On Demand Ride Service:** AU plans to maintain this service, as long as employee use continues, to provide cost-effective benefits in terms of reducing parking demand;
- (j) **Transportation Network Company Coordination:** TNC pick up/drop off (PUDO) locations will continue be provided near both Fletcher and Glover Gates on Main Campus and on East Campus. Discussions will be ongoing with TNCs regarding dedicated pick up/drop off (PUDO) locations on campus, and AU will actively collaborate with DDOT, ANCs and other interested community stakeholders, and specifically the AU Neighborhood Partnership Transportation and Parking Working Group, to explore other locations and alternatives to PUDO solutions with the goal of minimizing PUDO activity on Nebraska Avenue and Massachusetts Avenue;

- (k) **Event Coordination:** The TDM Coordinator will maintain involvement in event planning, working closely with on-campus partners to leverage benefits of AU's TDM programming and resources to better manage/reduce parking demand generated by campus events;
- (l) **Good Neighbor Parking Policy:** AU will continue to enforce the Good Neighbor Parking Policy, and will work closely with the AU Neighborhood Partnership Transportation and Parking Working Group to enhance the efficacy of the program;
- (m) **Expanding and Enhancing Good Neighbor Commitments:** The AU TDM Coordinator will continue to coordinate and align with the transportation and development plans for Upper Northwest, DC; specifically, Ward 3, to seek cross-beneficial opportunities to realize mutual benefits and to mitigate shared challenges. The university will continue to work closely with members of the community, specifically through the AU Neighborhood Partnership Transportation and Parking Working Group, which meets on a regular basis to assess current efforts and make recommendations to improve AU and community relationships around transportation and parking policies and programs. AU also gathers feedback from the Community Liaison Committee, other neighbor organizations, and the respective Advisory Neighborhood Commissioners;
- (n) **Increased/Improved Bike Parking and Amenities:** AU will track for any increase in rates of bike commuting that may result from the current period of direct COVID impacts on travel choice, and increase on-campus bike parking and related amenities – repair stations, shower and locker access, etc. – to accommodate and encourage greater use of bikes on campus;

AU will actively support DDOT with the installation of an additional Capital Bikeshare station near the Main Campus and pursue expansion of the two existing bikeshare stations along Nebraska Avenue and Massachusetts Avenue to accommodate and encourage use of bikeshare where it is most used by students and residents of the surrounding community;

AU will continue to work with DDOT, ANCs, and other interested community stakeholders, and specifically the AU Neighborhood Partnership Transportation and Parking Working Group, in connection with the implementation of the recommendations of relevant DDOT studies that support bicycle and multi-use facilities adjacent to and in the vicinity of University property, including DDOT's planned multi-use path from 42nd Street to Rockwood Parkway; and

- (o) **License Plate Recognition-Facilitated Parking Occupancy Monitoring:** AU has invested in and will continue to use LPR technology to track parking occupancy in support of on-campus enforcement and space utilization monitoring.

- 44. The University shall continue to work with the Transportation and Parking Working Group of the AU Neighborhood Partnership to evaluate the efficacy of these measures over the

term of the 2021 Campus Plan. In keeping with the City's and DDOT's transportation goals, the University will undertake the following:

- (a) On an annual basis, the University shall provide DDOT with a Transportation Performance Monitoring Plan Report which separately details the transportation mode split of University staff and faculty and the transportation mode split of University students. Through the continued implementation of the TDM measures, the University will aim to meet the City's goals as outlined in MoveDC and the City's Comprehensive Plan for non-auto mode share for both the student and staff/faculty populations;
 - (b) The Transportation Performance Monitoring Plan Report will also include utilization details of exclusive University-use parking facilities (Main Campus, Tenley Campus, and 4801 Massachusetts Avenue, N.W.) on a typical semester weekday; and
 - (c) It is understood by the University and DDOT that the Transportation Performance Monitoring Plan Report will have some necessary flexibility over the first two reporting periods due to the unknown transportation related impacts of COVID-19.
45. The University shall maintain a parking inventory of no more than 3,000 spaces for University use inclusive of all Campus Plan properties. The University shall continually evaluate its pricing policies for parking with the intention of discouraging single-occupancy vehicle trips to campus without generating demand for off-campus parking by University-affiliated vehicles. Parking utilization analysis will be included in the annual transportation memorandum as detailed in Condition No. 45.
46. The University shall continue to implement, and will work in consultation with the AU Neighborhood Partnership to enhance its *Good Neighbor Parking Policy* 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, 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 of termination. Visitors to the Campus, including attendees of all conferences, shall be encouraged to utilize non-single-occupant vehicle modes of transportation and/or use on-campus parking and, where feasible, notified in advance to do so;

- (c) For conferences and large special events, the Applicant shall encourage participants and attendees to utilize non-single-occupant vehicular modes of transportation where possible and work with area institutions in order to provide additional parking as needed; and
 - (d) The University shall direct its students to register their vehicles in the District of Columbia, or obtain a reciprocity sticker if eligible to do so. The University shall withhold parking privileges from students who do not comply with DC registration requirements. Failure to abide by District law concerning registration of student vehicles shall constitute a violation of the *Student Conduct Code*.
47. The University will pay all costs associated with the installation of a new 19-dock Capital Bikeshare station and will coordinate with DDOT on its ultimate location, which is expected to be at the southern end of the Main Campus near Fletcher Gate in accordance with DDOT's input. Additionally, AU will fund and install at least one four-dock expansion plate to each of the two existing Capital Bikeshare stations on Nebraska Avenue and Massachusetts Avenue, N.W., subject to DDOT approval.

On July 8, 2021, upon a motion by Commissioner May, as seconded by Commissioner Shapiro, the Zoning Commission took **FINAL ACTION** to **APPROVE** the application at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Michael G. Turnbull, and Peter G. May to approve).

In accordance with the provisions of Subtitle Z § 604.9, this Z.C. Order No. 20-31 shall become final and effective upon publication in the *D.C. Register*; that is, on April 8, 2022.


 ANTHONY J. HOOD
 CHAIRMAN
 ZONING COMMISSION


 SARA A. BARDIN
 DIRECTOR
 OFFICE OF ZONING

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, 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 PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE

ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED.
VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.