



ADVISORY NEIGHBORHOOD COMMISSION 3E

TENLEYTOWN AMERICAN UNIVERSITY PARK

FRIENDSHIP HEIGHTS

c/o Lisner Home 5425 Western Avenue, NW Washington, DC 20015

April 4, 2012

D.C. Zoning Commission
441 4th Street, NW, Suite 2108
Washington, DC 20001

Re: ZC Case 11-07B – Further Processing of the American University 2011-2020 Campus Plan for the Tenley Campus – ANC 3E Response to Post Hearing Filings by American University and the Tenley Neighbors Association

Dear Members of the Commission:

The Tenley Campus is located in ANC 3E. ANC 3E played an active role in the deliberations regarding the Tenley Campus proposals. Throughout that process ANC 3E consulted closely with the Tenley Campus Neighbor's Association (“TCNA”), an organization made up of virtually all residents in the neighborhood immediately surrounding the Tenley Campus, which was an active party in the Campus Plan process (ZC Case 11-07).

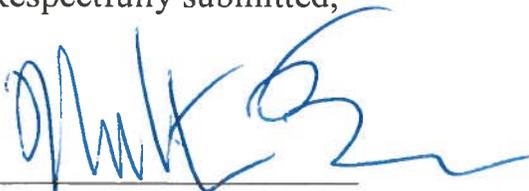
ANC 3E worked hard to encourage AU and TCNA to come to terms to address the interests of both the neighbors and University and was pleased when those parties were able to conclude an agreement. Upon the conclusion of that agreement, and as a condition to it, TCNA withdrew as a party to the proceedings and did not provide separate findings of fact and law or a draft Order. Instead, AU agreed to submit the conditions agreed upon with TCNA and ANC3E in its proposed Order. (ANC 3E also did not make such filings believing that the key issues were addressed in the TCNA/AU agreement and the draft AU Order, but ANC3E specifically endorsed the compromise that was reached in its testimony that is attached and is part of the record in this case.)

The only further issue raised by the most recent filings that we wish to address here is ANC 3F's implicit request that the Zoning Commission oppose any change to Warren Street, NW. The AU/TCNA agreement provided that the University would support a resolution by ANC 3E (supported by a petition from neighbors if required by DDOT) directed to traffic management on Warren Street following approval of the AU campus plan. In the future, given redistricting, all of Warren Street, NW east of Wisconsin will be within the jurisdiction of ANC 3E. The TCNA/AU agreement carefully weighed the possibility that Warren Street may need to be closed or converted to a one-way street to avoid objectionable conditions to neighboring properties and that recognition is reflected in the AU Order. The Zoning Commission should carefully preserve that element of the overall compromise that AU, TCNA and ANC3E reached.

Indeed, our core point at this stage, is to reiterate again as outlined in our attached resolution and testimony that the Zoning Commission should incorporate the letter and spirit of the AU/TCNA agreement in any order it issues regarding the Tenley Campus. We note also that one of the challenges we faced in bringing the parties together was the concern by the University that it could negotiate with one party (even the apparent key party) only to face new and different demands from another. The Zoning Commission's action in this matter will send a message to all involved about the wisdom of engaging in this kind of good faith negotiation to resolve issues. To send the appropriate message on that score and encourage similar efforts in the future, the Zoning Commission should meticulously incorporate the letter and spirit of the AU/TCNA agreement in its Order.

The text of this letter was agreed to by all five members of ANC 3E.

Respectfully submitted,



Matthew Frumin, Chair

CERTIFICATE OF SERVICE

I hereby certify that on April 4, 2012 the attached submission was delivered via e-mail to:

Paul Tummonds, Jr., Esq.
Goulston & Storrs
1999 K Street, NW
Suite 500
Washington, D.C. 20006

Arlova Jackson
D.C. Office of Planning
1100 4th Street, SW
Suite E650
Washington, D.C. 20024

Jamie Henson
District Department of Transportation
55 M Street, SE
Suite 500
Washington, D.C. 20003

ANC 3F
c/o Roman Jankowski, Chair
4401-A Connecticut Avenue, NW
Washington, D.C. 20008

Tenley Neighbors Association
c/o Judy Chessar
3901 Alton Place NW
Washington, D.C. 20016

Ward 3 Vision
c/John Wheeler
4304 Yuma Street, NW
Washington, DC 20016



Matthew Frumin, Chair, ANC 3E



ADVISORY NEIGHBORHOOD COMMISSION 3E
TENLEYTOWN AMERICAN UNIVERSITY PARK
FRIENDSHIP HEIGHTS

c/o Lisner Home 5425 Western Avenue, NW Washington, DC 20015

ANC 3E Testimony Regarding the Further Processing Application of the
2011-2010 American University Campus Plan
to Allow Construction of a New Washington College of Law,
Zoning Commission Case Number 11-07B

Good evening Chairman Hood, Commissioners. And, thank you for the opportunity to testify on this important matter. This has been a long and sometimes difficult, but ultimately successful process.

We have said from the start that ANC 3E supported in principle the relocation of the Washington College of Law to the Tenley Campus but needed to be assured that certain issues relating to design, traffic and parking management and protections against future development on the site could be addressed.

Early in the Campus Plan process ANC 3E and the most active neighbor organization – the Tenley Campus Neighbors Association (“TCNA”) established a separate track for discussions with University and City officials on the plans for the Tenley Campus, as had the Fort Gaines Neighbors regarding the Nebraska Hall addition.

Those discussions regarding the Tenley Campus involved at least a dozen meetings and witnessed periods of frustration and lack of progress but ultimately led to significant and positive modifications to the design as reflected in the current proposal (and an agreement in principle by the University to pursue further improvements relating to design and use of the lawn in front of Capital Hall) as well as an agreement between American University (“AU” or the “University”) and TCNA on ways to address traffic and parking and protection against future development on terms that both they, and, with the small change we propose herein, ANC 3E believe are adequate.

Through the successful conclusion of the Tenley Campus (and the Fort Gaines neighbors’ Nebraska Hall addition negotiations), the University has shown that community members can work with it to achieve positive outcomes for AU and the community, even if the process might have been shorter and less arduous. This successful conclusion stands in contrast to certain other chapters in the Campus Plan process in which key stakeholders have declined to engage in a meaningful dialogue with the University, and have chosen instead to forego the opportunity for a give and take while accusing the University of recalcitrance to the detriment of the process and the prospect of achieving the best possible outcome. If the latter approach is rewarded, while that taken in the Tenley Campus and Nebraska Hall matters is not adequately supported, it will send a counterproductive message to all parties engaged in future processes like this one.

We note that response to ANC 3E and TCNA requests, AU asked the Zoning Commission at its November 21, 2011 meeting, to incorporate into any order regarding this matter a set of fourteen conditions, in a document entitled "Proposed Conditions of Approval for the American University Washington College of Law – Tenley Campus Further Processing Application 11-07 B" ("Proposed Conditions"). Given the importance of those Proposed Conditions, we too urge that they be incorporated in the Order here with the small change I will describe shortly.

If those Proposed Conditions are incorporated in the Order, we believe that the relocation of the law school to the Tenley Campus can be a positive move for the University, the nearby neighborhood, Tenleytown generally and the City, and with the change proposed in our resolution and this testimony, we would support the Application.

We also request that most of the conditions suggested by the Office of Planning ("OP") and D.C. Department of Transportation ("DDOT") to the extent not already captured in the TCNA/AU agreement be incorporated in the ZC Order with a few important exceptions.

DDOT called on the University to reduce the size of its proposed on site underground parking garage from 400 to 250 spaces and to be prohibited from renting excess spaces on the site. Notwithstanding DDOT's claim that the proposal calls for too much parking, nearby neighbors are quite concerned that it provides too little. If DDOT is proven right, the University can and should remove surface parking and/or provide parking access to other nearby institutions that may eventually have a need for additional parking spaces.

With regard to the suggestion that AU widen the sidewalk between the Tenley and Main Campuses we ask that that idea be subject to further consideration to evaluate its potential impact on the affected landowners and nearby trees, including the cherry trees near portions of the relevant sidewalk. To the extent that the idea behind the sidewalk widening was to serve bicyclists, we would suggest that in any case the University and DDOT look for ways to create a bike lane between the campuses and we believe that AU should maintain a right of way in front of Nebraska Hall should any bicycle connection next to the sidewalk ever be proposed.

With regard to managing traffic at the entry to the underground parking garage, we note that while the University came forward with the proposed left turn lane for entry into the parking garage in response to certain suggestions from the community, both DDOT and ANC 3F, which represents the area just east of the Tenley Campus across Nebraska Avenue, have requested that the University continue to review with DDOT and the community the best solution for managing traffic at the entry to the garage – whether that be through the proposed left turn lane, removing parking spaces on Nebraska Avenue or both or some other set of solutions. We join in the DDOT and ANC 3F suggestion that the stakeholders should continue to evaluate what will be the best solution for this area.

Likewise, with regard to surface parking which has been an unresolved issue in this process, we urge that the University commit that if the traffic and monitoring studies show for three

years in a row that there is excess parking on the site, the University convert as much as possible of the surface parking to green space.

We also urge AU to follow through on its commitment to work with stakeholders to improve the design and use of the lawn in front of Capital Hall as well as to explore streetscape improvements to maximize connectivity between the Tenley Campus and Tenleytown Metro, improve the aesthetic of the area, maximize mass transit usage, and create an area that is inviting and safe generally for pedestrians and bicyclists.

Finally, we note that AU has proposed not to build additional structures on the Western portion of the Tenley Campus for 20 years. We applaud AU for this proposal. At the same time, however, AU's proposal would by its terms vanish if anybody within 200 feet of the campus files a lawsuit and maintains it for 60 days ("Lawsuit Restriction"). TCNA agreed to the Lawsuit Restriction, but TCNA has no control over *all* of the neighbors within 200 feet of the of the campus, and so cannot in our opinion reasonably assure that a suit – no matter how frivolous – will not be filed and maintained for 60 days.

We believe that preserving publicly accessible greenspace for 20 years at the Tenley Campus would provide a significant benefit to residents of ANC 3E other than those who belong to TCNA, and that AU's provision of this amenity should not be contingent upon TCNA's ability to control the behavior of residents who are not TCNA members.

Accordingly, ANC 3E urges the Zoning Commission to limit the Lawsuit Exception to suits filed by members of TCNA so that it will not apply if TCNA joins the University in opposing a lawsuit brought by a non-TCNA member given that such a modification would protect the interests of the broader community while also maintaining the spirit of the Agreement between TCNA and the University.

ANC 3E approved this testimony at a Special Meeting on November 30, 2011, which was properly noticed and at which a quorum was present. It was approved by a vote of 4-1. Commissioners Jonathan Bender, Mathew Frumin, Sam Serebin and Tom Quinn were present and voted for the testimony. Commissioner Beverly Sklover voted against it.

ANC 3E

Jonathan
Bender

Digitally signed by Jonathan
Bender
DN: cn=Jonathan Bender,
email=jbender@ibusinesslawy
er.com, o=Law Office of
Jonathan Bender, P.C., c=US
Date: 2011.12.01 15:47:05
-05'00'

By Jonathan Bender, Chair



ADVISORY NEIGHBORHOOD COMMISSION 3E

**TENLEYTOWN AMERICAN UNIVERSITY PARK
FRIENDSHIP HEIGHTS**

c/o Lisner Home 5425 Western Avenue, NW Washington, DC 20015

**Resolution Regarding the Further Processing Application of the
2011-2010 American University Campus Plan
to Allow Construction of a New Washington College of Law,
Zoning Commission Case Number 11-07B**

WHEREAS, ANC 3E has consistently indicated that it supported the relocation of the Washington College of Law to the Tenley Campus if certain issues – design, traffic, parking and protections against future development on the site -- could be addressed;

WHEREAS, ANC 3E and the most active neighbor organization – the Tenley Campus Neighbors Association (“TCNA”) – established a separate track for discussions, as had the Fort Gaines Neighbors regarding the Nebraska Hall addition, with University and City officials on the plans for the Tenley Campus;

WHEREAS, these discussions taken on a separate track resulted in significant and positive modifications to the design as reflected in the current proposal (and an agreement in principle by the University to pursue further improvements relating to design and use of the lawn in front of Capital Hall) as well as an agreement between American University (“AU” or the “University”) and TCNA on ways to address traffic and parking and protection against future development on terms that both they, and, with the small change we propose herein, ANC 3E believe are adequate;

WHEREAS, based on the successful conclusion of the Tenley Campus and Nebraska Hall addition negotiations, the University has shown that community members can work with it to achieve positive outcomes for AU and the community, even if the process might have been shorter and less arduous. This successful conclusion stands in contrast to certain other chapters in the Campus Plan process in which key stakeholders have declined to engage in a meaningful dialogue with the University, and have chosen instead to forego the opportunity for a give and take while accusing the University of recalcitrance to the detriment of the process and the prospect of achieving the best possible outcome. If the latter approach is rewarded, while that taken in the Tenley Campus and Nebraska Hall matters is not adequately supported, it will send a counterproductive message to all parties engaged in future processes like this one;

WHEREAS, in response to ANC 3E and TCNA requests, AU asked the ZC at its November 21, 2011 meeting, to incorporate into any order regarding this matter a set of fourteen conditions, in a document entitled “Proposed Conditions of Approval for the American

University Washington College of Law – Tenley Campus Further Processing Application 11-07 B” (“Proposed Conditions”);

WHEREAS, the Office of Planning (“OP”) and D.C. Department of Transportation (“DDOT”) have proposed, in some cases, similar and, in other cases, additional conditions for approving the Further Processing Application here;

WHEREAS, ANC 3E supports each of the suggestions made by OP relating to the University providing bicycle parking; AU collaborating with DDOT on on-street parking issues or alternatively coming up with a more robust campus parking policy; the University working to schedule classes to avoid rush hours; and incorporating into the order a maximum number of special events, each of which ANC 3E believes were also addressed in the agreement and conditions negotiated with ANC support and facilitation between AU and TCNA;

WHEREAS, DDOT suggested conditions for approval for the Application relating to monitoring of transportation activity, working with the community to address curb management issues, constructing a sidewalk on the south side of the Tenley Campus, installing a bikeshare location and implementing traffic calming measures on 42nd Street and Warren each of which were also addressed in the agreement and conditions negotiated between AU and TCNA and each of which ANC 3E fully supports;

WHEREAS, although University came forward with the proposed left turn lane for entry into the parking garage in response to certain suggestions from the community, both DDOT and ANC 3F, which represents the area just east of the Tenley Campus across Nebraska Avenue, have urged that the University continue to review with DDOT and the community the best solution for managing traffic at the entry to the garage – whether that be through the proposed left turn lane, removing parking spaces or both or some other set of solutions);

WHEREAS, DDOT also suggested that the University not be allowed to build more than 250 underground parking spaces rather than the proposed 400, a suggestion that both the nearby neighbors and ANC 3E oppose given their concern regarding overflow parking in the nearby neighborhoods;

WHEREAS DDOT further suggested that the University be prohibited from renting parking spaces on the site, a suggestion that ANC 3E opposes, given that if DDOT is right that the University is building more parking than needed, there is no reason why that parking should remain idle when there are other potential users in the area that could put such parking to productive use and alleviate some of the burden on on-street parking;

WHEREAS, DDOT also suggested that the AU work with the community to widen the sidewalk between the Tenley and the Main Campuses, a suggestion that ANC 3E

believes requires further consideration particularly given cherry trees located near parts of the sidewalk;

WHEREAS, the University proposes to continue to include 40-50 surface parking spaces in the plan despite the fact that many have urged that surface parking be eliminated and ANC 3E has continued to urge that if the traffic and parking monitoring shows that there is excess parking on the site for three years in a row that the University commit to restore the area devoted to surface parking to green space;

WHEREAS, AU has proposed not to build additional structures on the Western portion of the Tenley Campus for 20 years, but only if nobody within 200 feet of the campus files a lawsuit and maintains it for 60 days (“Lawsuit Restriction”);

WHEREAS, TCNA agreed to the Lawsuit Restriction, but TCNA does not control *all* of the neighbors within 200 feet of the Tenley Campus, and cannot reasonably assure that a suit – no matter how frivolous – will not be filed and maintained for 60 days;

AND WHEREAS, preserving publicly accessible greenspace for 20 years at the Tenley Campus would provide a significant benefit to residents of ANC 3E other than those who belong to TCNA.

THEREFORE BE IT RESOLVED that ANC 3E applauds the University and TCNA for successfully negotiating an agreement governing the proposed project.

In light of that agreement and AU’s proffer of the Proposed Conditions, ANC 3E supports the Application for Further Processing in this case and urges that the terms of the AU/TCNA agreement and related conditions of approval be incorporated in the Zoning Commission Order, with the modification to the Lawsuit Exception noted below.

ANC 3E further asks that the Zoning Commission adopt the related conditions proffered by OP and DDOT with the exception that the Zoning Commission should reject the DDOT suggestions that underground parking be reduced from the University proposal and that the University be prohibited from renting parking spaces on the Tenley Campus to others in the future and should call for further consideration of the proposal to widen the sidewalk on Nebraska between the Tenley and Main Campuses.

While ANC 3E suggests that the proposal to widen the sidewalk on Nebraska between the Tenley and Main Campuses requires further consideration, to the extent that one purpose of widening the sidewalk would be to serve bicyclists, ANC 3E suggests, in any case, that a bike lane be added on Nebraska between the Tenley and Main Campuses.

With regard to on site parking, ANC 3E urges that if it is determined that there is excess parking, the Zoning Commission should call for a reduction in the surface parking not the underground parking (and in any event Zoning Commission should join ANC 3E in

urging that if that surface parking is shown not to be needed based on findings of the traffic and parking studies for three years in a row, it should be removed and converted to green space.)

ANC 3E joins DDOT and ANC 3F in encouraging ongoing analysis of how best way to address the challenge of entry to the proposed underground parking garage on the Tenley Campus entered from Nebraska Avenue whether it be the proposed left turn lane, removing parking on Nebraska or both or some other set of solutions.

ANC 3E also calls on AU to follow through on its commitment to work with stakeholders to improve the design and use of the lawn in front of Capital Hall as well as to explore streetscape improvements designed to maximize connectivity between the Tenley Campus and Tenleytown Metro, improve the aesthetic of the area, maximize mass transit usage, and create an area that is inviting and safe generally for pedestrians and bicyclists.

ANC 3E also urges AU to include a right of way in front of Nebraska Hall which could be used for a future bike path if an agreement is reached later to build such a path.

Finally, ANC 3E requests that the Zoning Commission limit the Lawsuit Exception to suits filed by non-members of TCNA so that it will not apply if TCNA joins the University in opposing a lawsuit brought by a non-TCNA member given that such a modification would protect the interests of the broader community while also maintaining the spirit of the Agreement between TCNA and the University.

ANC 3E approved this resolution at a Special Meeting on November 30, 2011, which was properly noticed and at which a quorum was present. It was approved by a vote of 4-1. Commissioners Jonathan Bender, Mathew Frumin, Sam Serebin and Tom Quinn were present and voted for the resolution. Commissioner Beverly Sklover voted against it.

ANC 3E
**Jonathan
Bender**

Digitally signed by Jonathan Bender
DN: cn=Jonathan Bender,
email=jbender@businesslawyer.com,
o=Law Office of Jonathan Bender,
P.C., c=US
Date: 2011.12.01 14:11:39 -0500

By Jonathan Bender, Chair

AGREEMENT

This AGREEMENT (“**Agreement**”) is made as of this 21 day of November, 2011 by and between The American University, a corporation chartered by a Special Act of Congress operating a non-profit institution of higher education within the District of Columbia (“**American University**”), and the Tenley Campus Neighbors Association, a District of Columbia non-profit corporation, whose members are comprised of property owners within 200 feet of American University’s Tenley Campus (“**TCNA**”).

RECITALS

WHEREAS, American University has submitted to the District of Columbia Zoning Commission as Case Number 11-07B (“**Case No. 11-07B**”) a proposal pursuant to Section 210 of the District of Columbia Zoning Regulations to relocate the Washington College of Law to American University’s Tenley Campus, Lot 1, Square 1728, located in the R-1-B low-density residential zone, and comprising approximately 8.17 acres, more or less.

WHEREAS, TCNA has submitted an application for party status in Case No. 11-07B in opposition to American University’s proposal.

WHEREAS, TCNA agrees to withdraw its opposition to American University’s proposal as described in the submissions entered by American University in Case No. 11-07B as of the date shown above, and American University agrees to obligate itself as set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises set forth herein, including the Recitals set forth above, which are hereby incorporated by reference and made a part hereof, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, American University and TCNA hereby agree as follows:

1. Conditions of Approval to be Proposed by AU. American University agrees to abide by certain conditions, which are attached to and made a part hereof as Exhibit A, including the diagram depicting the Restricted Area, which is attached as Attachment A to Exhibit A, which address restrictions on the future development of the Tenley Campus and traffic calming measures identified in the Rock Creek II West Livability Study. American University will submit those conditions into the record of Zoning Commission Case No. 11-07B and will request that the Zoning Commission include these conditions in any written order approving Case No. 11-07B. The parties agree that the conditions attached at Exhibit A shall be binding on the parties as material obligations of this Agreement, and shall not be invalidated or otherwise deemed to be ineffective if the Zoning Commission fails to adopt any or all of such conditions in its Decision in Case No. 11-07B.

2. TCNA Position Respecting Tenley Campus Proposal in ZC Application No. 11-07B. TCNA, and all of its constituent members, shall not oppose any aspect or condition of American University's proposed relocation of the Washington College of Law to the Tenley Campus, as proposed in Case No. 11-07B, in writing or testimony before the Zoning Commission. TCNA shall also not oppose any building, public space or other permits or approvals necessary to implement the construction of the facilities proposed in Case No. 11-07B, as authorized by the Zoning Commission in its initial Decision approving such proposed development; provided, however, that TCNA shall not be obligated to withhold objections to any proposed modification subsequent to the Zoning Commission's initial approval of Case No. 11-07B that proposes development within the Restricted Area. The parties agree that should TCNA or any property owner residing within 200 feet of the Tenley Campus file any legal challenge as described in Condition No. 1 on Exhibit A hereto, this Agreement shall be terminated and will

be of no further effect. Except that, in the case of an individual property owner, this Agreement shall not expire if such legal challenge is withdrawn within 60 days of its filing.

3. Authority of American University. The undersigned American University signatory represents that he has the authority to enter into this Agreement and this Agreement is a valid and legally binding agreement of American University enforceable in accordance with its terms.

4. Authority of TCNA. The undersigned TCNA signatory represents that he has the authority to enter into this Agreement on behalf of TCNA and this Agreement is a valid and legally binding agreement of TCNA enforceable in accordance with its terms.

5. Rights of Individual Property Owners. American University expressly acknowledges, represents and warrants that this Agreement is intended to benefit, among others, the owners of property within 200 feet of the Tenley Campus, most of whom are members of TCNA, and that any such property owner shall have standing to enforce the terms of this Agreement in any court of competent jurisdiction.

6. Entire Agreement. This Agreement constitutes the entire Agreement between the parties hereto and no party is liable to the other or bound in any manner by express or implied warranties, guarantees, promises, statements or representations pertaining to the subject matter hereof unless such warranties, guarantees, promises, statements, or representations are expressly and specifically set forth herein. The parties expressly acknowledge, represent and warrant that they are bound as set forth herein and that this Agreement shall be enforceable in any court of competent jurisdiction.

7. No Recordation. Each of the parties expressly acknowledges that this Agreement will not be recorded in the Land Records of the District of Columbia.

8. Remedies. American University acknowledges, represents and warrants that there may be no adequate remedy at law for a violation of the terms of this Agreement, and that therefore injunctive relief is an appropriate remedy.

9. Successors and Assigns. The covenants and provisions of this Agreement are binding upon, and inure to the benefit of the respective successors and assigns of the parties hereto.

10. Term. This Agreement shall automatically expire and be of no further effect as of January 1, 2032.

[Signatures appear on the following page]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

THE AMERICAN UNIVERSITY

By: 
Donald L. Myers
CFO, Vice President and Treasurer

TENLEY CAMPUS NEIGHBORS ASSOCIATION

By: 
Gregory Ferenbach
President

EXHIBIT A

PROPOSED CONDITIONS TO BE SUBMITTED TO THE DISTRICT OF COLUMBIA ZONING COMMISSION

1. **Restrictions on Future Development**– Upon Zoning Commission approval of the construction of the facilities proposed in Zoning Commission Case No. 11-07B concerning the Tenley Campus, American University commits not to propose any further development of any kind during the term of the campus plan currently before the Zoning Commission or in the next Campus Plan (currently expected to be for the period 2022-2031, but for whatever the term of the campus plan that follows the campus plan that is before the Zoning Commission in Case No. 11-07B) on the western portion of the property shown on **Attachment A** (the “**Restricted Area**.”) If the next Campus Plan has a life longer than twenty years, this development proposal restriction will extend to the end of calendar year 2031. For avoidance of doubt, American University commits that there will be no new facility proposed prior to 2031 in the Restricted Area, and this restriction is not intended to expire with the Zoning Order in Case No. 11-07B, notwithstanding that the District’s campus plan process currently contemplates a 10-year campus plan. In addition, American University commits that construction on any such proposed future project, if approved, will not be initiated before 2032. This condition shall automatically terminate in the event that TCNA or any property owner residing within 200 feet of the Tenley Campus, files any legal challenge to the Zoning Commission’s action in authorizing Washington College of Law’s relocation to the Tenley Campus as proposed in Zoning Commission Case No. 11-07B, except that, in the case of an individual property owner, this condition shall not expire if such legal challenge is withdrawn within 60 days.
2. **Limited Exceptions to Forgoing Restrictions on Future Development**. If AU demolishes the 1970’s era additions to the Dunblane house, which lies within the Restricted Area, it may build replacement square footage not to exceed what was demolished, but only on the area of the Tenley Campus outside the Restricted Area and subject to all necessary prior consents and approvals as may be required under law, including any historic preservation requirements. If American University chooses to eliminate the surface parking in the Restricted Area, such removal will not be deemed to violate the foregoing restriction, but no facility may be constructed on such surface parking area prior to 2032.
3. **Traffic Calming Measures Identified in the Rock Creek West II Livability Study** – AU commits that it will pay all costs, up to a maximum of \$400,000, necessary to implement each of the traffic calming measures identified in the Rock Creek West II Livability Study for the intersections of: (i) 42nd Street and Van Ness Street; (ii) 42nd Street and Warren Street; and (iii) 42nd Street and Yuma Street. If improvements to the above-listed intersections cost less than \$400,000, then the balance of the unspent funds will be allocated to improvements at 42nd and Albemarle Streets. Such contribution shall be made only when DDOT has committed to implementing the measures for the above-listed intersections.

Attachment A

Diagram of Restricted Area

