

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
COLUMBIA ZONING COMMISSION ORDER NO. 23-16

Z.C. Case No. 23-16

The University of the District of Columbia Lamond-Riggs  
Campus 2023-2033 Master Campus Plan

(5171 South Dakota Avenue, N.E.; Square 3757, Lot 802)

October 30, 2023

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on October 30, 2023, to consider an application (“Application”) of The University of the District of Columbia (the “University” or “UDC” or “Applicant”) for review and approval of the University of the District of Columbia 2023-2033 Lamond-Riggs Campus Master Plan (the “2023 Plan” or “Campus Plan”) for UDC’s Lamond-Riggs Campus located on Lot 802 in Square 3757 and having a street address of 5171 South Dakota Avenue, N.E. (the “Lamond-Riggs Campus” or “Campus” or “Property”). The Commission considered the Application pursuant to Chapter 1 of Subtitle X of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations (“DCMR”).), Zoning Regulations of 2016, to which all references are made unless otherwise specified).

The public hearing was conducted in accordance with the provisions of Subtitle Z, Chapter 4. For the reasons stated below, the Commission hereby **APPROVES** the Application.

**FINDINGS OF FACT**

**I. BACKGROUND**

**PARTIES**

1. The following were automatically parties to the case pursuant to Subtitle Z § 403.5:
  - The Applicant; and
  - Advisory Neighborhood Commission (“ANC”) 5A, the ANC in which the Property is located and, therefore, an “affected ANC” pursuant to Subtitle Z § 101.8.
2. The Commission received no other requests for party status.

**NOTICE**

3. On February 1, 2023, the University mailed a Notice of Intent to ANC 5A and to the owners of all property within 200 feet of the Property, as required by Subtitle Z § 302.6 (Exhibit [“Ex.”] 2C1, 2C2, 2D.)

4. On July 24, 2023, the Office of Zoning (“OZ”) sent notice of the October 30, 2023<sup>1</sup> public hearing to:
  - The Applicant;
  - The affected ANC 5A;
  - The Single Member District (“SMD”) Commissioners 5A01, 5A08, and 5A09;
  - The Office of Planning (“OP”);
  - The District Department of Transportation (“DDOT”);
  - The Department of Buildings (“DOB”);
  - The Zoning Commission (“ZC”) Lead Attorney;
  - The Department of Energy and Environment (“DOEE”);
  - The Ward 5 Councilmember;
  - The At-Large Councilmembers and the Chair of the D.C. Council; and
  - Owners of property within 200 feet of the Property.(Ex. 5, 6, 9.)
5. OZ published public notice of an October 16, 2023 hearing date in the August 4, 2023 issue of the *District of Columbia Register* (70 DCR 010826 *et seq.*), as well as through the calendar on OZ’s website. (Ex. 4, 5.)
6. OZ also published public notice of the corrected October 30, 2023 hearing date, in the September 1, 2023 issue, of the *District of Columbia Register* (70 DCR 011622 *et seq.*), as well as through the calendar on OZ’s website. (Ex. 8, 9.)
7. Pursuant to Subtitle Z §§ 402.8 and 402.9, the Applicant filed an affidavit supported by photos stating that on September 18, 2023, it had posted the required notice of the public hearing. (Ex. 13.) Pursuant to Subtitle Z § 402.10, the Applicant filed an affidavit on October 24, 2023 attesting that it had maintained the posting of the notice of the Property. (Ex. 17.)

#### **THE CAMPUS**

8. The Property that is the subject of this Application is located at 5171 South Dakota Avenue, N.E. and comprises Square 3757, Lot 802. The Property is the site of the former Bertie Backus Middle School. Jurisdiction over the Property was transferred to the University of the District of Columbia from the federal government. (Ex. 2G.)
9. The Lamond-Riggs Campus is zoned R-2. The adjoining portion of the South Dakota Avenue, N.E. corridor is primarily zoned R-2, and surrounding areas are zoned RA-1 and MU-3A. The Lamond-Riggs Campus is designated Local Public Facilities on the Future Land Use Map (“FLUM”) of the Comprehensive Plan (Title 10-A DCMR, the “CP”) and as a Neighborhood Conservation Area on the Generalized Policy Map (“GPM”) of the CP. (Ex. 2G, 2H1.)

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<sup>1</sup> The initial public hearing notice (Ex. 5.) listed the hearing date as October 16, 2023. A corrected public hearing notice with the correct hearing date was sent out on August 23, 2023. (Ex. 9.)

10. The Property is located in Northeast Washington, contains an area of approximately 213,405 square feet, and is bounded generally by Hamilton Street, N.E. to the north; Galloway Street, N.E. to the south; South Dakota Avenue, N.E. to the west; and a public alleyway to the east. (Ex. 2G, 2H1.)
11. The Lamond-Riggs Campus consists of one (1) academic and administrative building situated between two hardscaped parking areas. The Campus also includes agricultural plots, a greenhouse area, and a pocket park. (Ex. 2G, 2H1.)
12. The southern end of the Lamond-Riggs Campus, along Galloway Street, N.E., fronts the National Park Service's Fort Circle Parks. Along the entire north and east sides of the campus is a series of two-story, single-family semi-detached row homes. To the west of the campus across South Dakota Avenue, N.E. is the Art Place at Fort Totten Planned Unit Development. (Ex. 2G, 2H1.)

## II. THE APPLICATION

### **THE 2023 CAMPUS PLAN**

13. UDC previously obtained approval for a campus plan and the further processing of a student center at the University's flagship Van Ness Campus (*see* Z.C. Order Nos. 11-02 and 11-02A; the "Van Ness Plan").<sup>2</sup> The Van Ness Plan anticipated growth in the student population on the Van Ness Campus and proposed physical developments to support on-campus student life and sustainability. It also anticipated growth across the other UDC campuses, including the Lamond-Riggs (f/k/a Bertie Backus) Campus. (Ex. 2G.)
14. In its 2023 Plan, the University sets forth its vision to modernize the Lamond-Riggs Campus, transforming it into a premier educational institution through the development of needed student facilities that include the renovation and upgrading of existing academic buildings and facilities. The 2023 Plan calls for establishing the Lamond-Riggs Campus, and the Community College ("CC" or "UDC-CC") programming available at the campus, as a pacesetter in urban education, offering high quality education at a low cost. (Ex. 2G, 14, 24.)
15. The goals of the 2023 Plan are as follows: establish the Lamond-Riggs Campus as a landmark community college hub emerging as an important economic engine for the District of Columbia and the region; accommodate future growth and implementation of new technologies while maintaining a commitment to the environment; design new lab space for flexible use to accommodate the interdisciplinary nature of education; establish efficient space layouts within the campus to provide better access and circulation for students and improve operational effectiveness; strengthen the campus' image and character by promoting the University's distinct identity through wayfinding and placemaking; create opportunities to enhance the student experience by creating a courtyard environment that will engage the students from both classroom wings and

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<sup>2</sup> The University recently obtained approval of an updated campus plan for the Van Ness Campus (*see* Z.C. Order No. 20-33, effective May 6, 2022).

provide an outdoor place for activities; reduce parking, recognizing that the University is in an urban setting with direct access to mass transit and may be accessed by multiple modes of transportation; and improve the urban campus to effectively maximize the utilization of open areas with the aim to provide much needed green space and better pedestrian circulation through the new courtyard design. (Ex. 2G, 14, 24.)

16. The strategies and objectives articulated in the 2023 Plan are as follows: optimizing the utilization of technical facilities and learning environments both within the classroom and throughout the Lamond-Riggs Campus; providing an environment for cultural exchange, effectively harnessing technology within campus boundaries as well as across the District of Columbia; investing in an efficient and reliable infrastructure that supports academic and administrative activities; utilizing its physical presence to engage and enliven the surrounding community in a manner that contributes to the vitality of South Dakota Avenue, N.E., but also manages the impact of the University on surrounding residential communities; promoting transportation solutions that take into account the ready access of public transportation to the University and the strategic commitment to sustainable development that stresses use of public transit over private vehicles; integrating a philosophy of environmentally sustainable management into aspects of the University's physical character and operations; and furthering opportunities for community engagement through its academic and cultural facilities. (Ex. 2G, 14, 24.)
17. The 2023 Plan incorporates five main changes to the Lamond-Riggs Campus: (1) modernize and upgrade the existing academic building and facilities; (2) strengthen enrollment opportunities and welcome a modest increase in students, faculty, and staff; (3) promote the University's distinct identity and wayfinding for public use of campus; (4) implement on-site urban design improvements along the campus frontages on South Dakota Avenue, N.E., Hamilton Street, N.E., and Galloway Street, N.E.; and (5) construct a new wing to increase programs and provide an open space courtyard for improved green landscaping and sustainable features. (Ex. 2G, 2H1-2H4, 14, 24.)

#### *Community Engagement and the Development of the 2023 Plan*

18. Beginning on October 19, 2022, the University hosted engagement meetings with community members to gain external stakeholder feedback. On November 16, 2022, the Applicant presented the proposal to ANC 5A. Over the course of the following months, the Applicant continued to engage with the ANC, SMD, and community members as development of the campus plan continued. Presentations were provided to the ANC and SMD during their regularly scheduled April and May 2023 monthly meetings. Subsequent to the filing of the campus plan application, various discussions were held with District agencies, including OP and DDOT, and another community meeting was held on September 7, 2023. (Ex. 14.)
19. The University also released a publicly available online external stakeholders survey to solicit input from neighbors, which had a total of 66 respondents. The University conducted an internal survey, which had a total of 203 respondents, and convened a university advisory group, consisting of students, faculty and staff, the members of which were

appointed by the President of the University, to provide their input and recommendations throughout the planning process. (Ex. 2G, 2H1-2H4, 14, 24.)

#### *Student Enrollment*

20. The University proposes a student enrollment of a maximum 3,000 students on a headcount basis. As stated in the 2023 Plan, this enrollment increase is needed to adapt to changes in the economy and workforce demographics and needs, and would permit the University to develop its programs and attract and retain talented students and faculty. The proposed enrollment would be accommodated within existing campus academic and administrative infrastructure. (Ex. 2G, 24.)

#### *Campus Development*

21. The 2023 Plan identifies a two-phased approach for development of the Lamond-Riggs Campus. Phase I calls for the modernization and upgrading of the existing academic and administrative building and facilities, including but not limited to upgrades to HVAC equipment, interior renovations to provide a more efficient layout of classrooms and administrative space, and improvements to wayfinding and signage. Phase II identifies the construction of a new wing to be attached to the existing building, which would create a courtyard environment in the interior of the campus building and offer student- and faculty-oriented space, such as a student center and an accessible green roof. (Ex. 2G, 2H1-2H4, 14, 24.)

#### *Sustainability, Landscape, and Open Space*

22. The Applicant noted that sustainability is a core value in the 2023 Plan. The 2023 Plan includes proposals for additional stormwater management facilities, including reducing hardscape by increasing pervious paving and bioretention areas, as well as proposals to increase energy efficiency, including improving monitoring and measuring building energy performance, HVAC upgrades, and structural reinforcement to allow for portions of the existing building to become solar-panel-ready. (Ex. 2G, 2H1-2H4, 14, 24.)
23. The 2023 Plan also proposes an increase in green spaces. The provision of the new wing would facilitate an interior courtyard environment, offering outdoor study areas, informal gathering spaces, and/or meditation spaces. Additionally, the new wing would provide a green roof. The 2023 Plan also proposes the addition of green walls to the exterior of building walls, and the placement of new trees and bioretention areas on the parking lots along both Galloway Street, N.E. and Hamilton Street, N.E. (Ex. 2G, 2H1-2H4, 14, 24.)
24. The University seeks to express its mission through its physical appearance and establish a positive physical presence in the surrounding community. The 2023 Plan includes proposals that the Applicant notes will strengthen the University's identity and visual appeal and improve the Lamond-Riggs Campus' design characteristics through revitalized landscaping and softscaping, streetscape, and open spaces. The 2023 Plan contains recommendations to enhance the pedestrian flow through the Lamond-Riggs Campus with direct connections to the public right-of-way. These recommendations include proposals to improve the pedestrian circulation on campus by improving walkways and adding pedestrian paths in and around the campus. (Ex. 2G, 2H1-2H4, 14, 24.)

25. The Applicant notes that the University will comply with District requirements by meeting the 2021 Building Energy Performance Standards (“BEPS”). Furthermore, new construction contemplated as part of Phase II of the 2023 Plan will align with the Green Building Code. Whenever feasible, the University will aspire to achieve LEED Silver, Gold, or Platinum Certification. (Ex. 2G, 2H1-2H4, 14, 24.)

#### *Campus Character*

26. The Applicant notes that the Lamond-Riggs Campus is the site of a growing community college institution and should be recognized as a significant resource to the community. The University seeks to improve the physical expression of the Lamond-Riggs Campus by improving the appearance of its building, providing clear wayfinding, enhancing the streetscape and establishing a cohesive landscaped open space system on the campus and its edges. (Ex. 2G, 2H1-2H4, 14, 24.)
27. Accordingly, the 2023 Plan proposes: to express the institutional identity of the Lamond-Riggs Campus via coordinated signage, art, and iconography; by improving the appearance of its building, providing clear wayfinding, enhancing the streetscape, and establishing a cohesive landscape open space system; to connect the community and the campus population by exploring ways in which physical improvements to the campus can make the overall neighborhood more physically and economically attractive; and by utilizing the Lamond-Riggs Campus to activate the adjacent portion of the South Dakota Avenue, N.E. corridor through improvements such as publicly accessible seating and the prominent display of the 9/11 Memorial, dedicated to individuals from the former Bertie Backus Middle School who were lost in the tragedy. (Ex. 2G, 2H1-2H4, 14, 24.)
28. Specifically, the 2023 Plan proposes to design and implement a campus signage plan with effective graphic quality, which would include: street signage, exterior building signage, directional signs, pathway markings, and campus map kiosks. (Ex. 2G, 2H1-2H4, 14, 24.)

#### *Transportation and Parking*

29. The University’s Comprehensive Transportation Review (“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 Transportation Demand Management (“TDM”) planning. (Ex. 2G3, 12, 12A, 24.)
30. The transportation goals of the 2023 Plan are to: enhance pedestrian safety; promote transit use; reduce automobile dependency; reinforce sustainability; improve campus circulation, and enhance pedestrian connectivity, including the introduction of additional pedestrian walkways with direct access to adjacent public rights-of-way. Based on these goals, the transportation component of the 2023 Plan is to accommodate current and future population levels on the Lamond-Riggs Campus without adding more parking supply or roadway capacity. The University will take advantage of its location within a high-quality transportation network served by multiple modes to grow without investment in vehicular-based infrastructure. (Ex. 2G, 2G3, 12, 12A, 24.)

31. Specifically, the 2023 Plan includes the following proposals: to modify the Galloway Street, N.E. entrance to the parking lot to be in further compliance with DDOT standards; to provide landscaped parking islands within the modified parking lot accessed from Galloway Street, N.E.; to provide pedestrian walkways in and around the Hamilton Street, N.E. parking lot to ensure pedestrian safety; and to provide traffic safety measures such as pedestrian bump-outs at the intersections of Hamilton Street, N.E. and South Dakota Avenue, N.E. and Galloway Street, N.E. and South Dakota Avenue, N.E. (Ex. 2G, 2G3, 12, 12A, 24.)
32. As part of the 2023 Plan, 65 parking spaces are proposed to be removed from the Galloway Street, N.E. parking lot, four parking spaces are proposed to be removed from the Hamilton Street, N.E. parking lot, and short-term and long-term bicycle parking is proposed to be added. Loading and service facilities are proposed to be moved from the south side of the campus, currently accessed from Galloway Street, N.E. to the north side of the campus to be accessed from Hamilton Street, N.E. (Ex. 2G, 2G3, 12, 12A, 24.)
33. Comprehensive TDM planning will remain a priority for the University over the term of the 2023 Plan. Based on the CTR and technical analysis conducted by Gorove Slade, the CTR concludes that the 2023 Plan is not expected to generate significant changes to roadway traffic volumes, operations, or geometries and therefore, the traffic impacts will be manageable. Notably, the 2023 Plan is expected to lead to increased growth in walking, bicycling, and transit use. (Ex. 2G, 2G3, 12, 12A, 24.)

#### APPLICANT'S SUBMISSIONS

34. On June 21, 2023, the University submitted an application for the review and approval of a new campus plan for the Lamond-Riggs Campus. (Ex. 1-2H4.)
35. On September 26, 2023, the University submitted its draft CTR in support of the 2023 Plan. (Ex. 12, 12A). The CTR was previously submitted to DDOT for review on September 15, 2023. On November 20, 2023, the University submitted its TDM plan and Performance Management Plan ("PMP") to accompany the 2023 Plan. (Ex. 24.) The Applicant revised the TDM plan and PMP in accordance with the comments identified in DDOT's report, as further discussed below.
36. On October 11, 2023, the University submitted a supplemental statement which included the following supplemental information and revisions to the 2023 Plan:
  - Community Feedback and Revised Architectural Exhibits: The University proposed updates to the 2023 Plan and its architectural exhibits in response to comments from DDOT, ANC 5A, and the community, including:
    - Identifying access from Galloway Street for pick-up and drop-off activity and posting signage for bicycle parking spaces. In addition, the University states that native plantings would be utilized in new landscaping upon finalization of a construction bid and coordination with landscape architects;
    - Explaining that the University provides enrollment opportunities for high school students through dual enrollment programs and participation in the Mayor Marion

- Barry Summer Youth Employment Program in response to requests from the community to develop an internship program for high school students;
- Adding a pedestrian walkway and striped crossing from Hamilton Street, N.E. across the parking lot to the northern frontage of the building, which will provide safe pedestrian access; and
  - Identifying the existing street trees and associated tree boxes along the eastern frontage of South Dakota Avenue, N.E. to confirm compliance with DDOT Urban Forestry Division’s public realm design standards;
- Comprehensive Plan Analysis: The University submitted a supplemental CP analysis which asserts that the Application is not inconsistent with the CP, including various policies and goals of the Land Use, Transportation, Environmental Protection, Economic Development, Parks, Recreation, and Open Space, Urban Design, Community Services and Facilities, and Arts and Culture Elements and the Upper Northeast Area Element as viewed through a racial equity lens; and
  - Racial Equity Analysis: In response to the Commission’s revised Racial Equity Analysis Tool released on February 3, 2023, the University provided a racial equity analysis which includes a summary of its community outreach efforts, including meetings with ANC 5A and local civic associations and stakeholders. (Ex. 14.)
37. On November 20, 2023, the University submitted a post-hearing statement with its responses to comments from the Commission, OP, and ANC 5A, including the following:
- Updated revisions to Sections 1.3, 3, 3.2, 3.5, 4.2, 6.3, 7.4, and 8.3 of the 2023 Plan which incorporated the University’s responses to the comments from the Commission, OP, and the ANC as discussed below;
  - University’s Response to OP: The University states it agrees to the two conditions requested by OP in its report, as further discussed below, regarding a student enrollment cap and the 2023 Plan’s validity period. In response to OP’s suggestion that the University research the history of the former Bertie Backus Middle School, the University stated that it will engage with the DC State Historic Preservation Office during Phase II of the 2023 Plan. In response to OP’s further recommendations in its report regarding the Campus’ Urban Food Hub and compliance with net-zero energy requirements, the University stated that it has begun coordinating with DOEE on bolstering the Food Hub’s programming and that it will comply with net-zero energy requirements for new construction proposed in Phase II of the 2023 Plan, but that Phase I development is limited to a modernization which would not fall under those requirements;
  - Updated TDM plan and PMP: The University included an updated TDM plan and PMP incorporating DDOT’s requested conditions in its report. The University states that DDOT indicated it had no further comments on the TDM plan and PMP;
  - University’s Response to ANC 5A: The University provided its responses to ANC 5A’s report (Exhibits 18, 21), which identified several areas that can be further addressed in the 2023 Plan, as further discussed below:
    - *Transportation*: The University stated that capital funding for pedestrian safety improvements was limited, but would include new and modified walkways with direct connections to public sidewalks as part of Phase I of the 2023 Plan. The



University would also work with DDOT to explore further ways to address improvements to the right-of-way adjacent to the Campus as well as safety concerns at the intersection of South Dakota Avenue, N.E. and Hamilton Street, N.E. The University identified dedicated pick-up and drop-off locations accessed by Galloway Street. The University stated it will market and encourage the use of existing nearby Capital Bikeshare locations but did not commit to installing a new Bikeshare station closer to Campus. The University clarified that the proposed development has been designed to accommodate all loading and servicing activities and that most trucks serving the Campus would not exceed 30 feet in length;

- *Sustainability*: The University stated that the College of Agriculture, Urban Sustainability & Environmental Sciences (“CAUSES”) has begun engaging with DDOT to bolster the Urban Food Hub’s programming and bringing awareness about the Hub’s shift to training and demonstration purposes. The University confirmed it is moving forward with renewing operations of a farmers’ market and will contemplate additional ways to ensure clean and sustainable waste removal. The University noted that trash collection and waste removal is identified as part of the CTR;
- *Community Relations*: The University stated it will implement a comprehensive community engagement program led by its Director of Community Engagement, but that it would not commit to implementing all of the ANC’s further recommendations due to budget and funding limitations;
- *Campus Character*: The University states it will explore internship opportunities for high school students but that it currently offers dual enrollment for high school students and also participates in the Mayor Marion Barry Summer Youth Employment Program; and
- *Additional Considerations*: The University states it will report mode splits and work with DDOT to improve mode sharing opportunities. The University intends to implement wayfinding signage improvements in and around the Campus. The University reiterated that it will prioritize the use of native and pollinator-friendly plantings during both phases of development and work to reduce wasteful activities and reduce modification of the parking area between Phase I and Phase II;
- Updated Campus Plan Narrative: The University included several revisions and corrections to the 2023 Plan’s narrative in response to the Commission’s comments, updated analyses, and its outreach efforts; and
- Revised Plans: The University enclosed updated architectural plans reflecting the above changes. (Ex. 24.)

### III. APPLICANT’S JUSTIFICATION FOR RELIEF

38. The Applicant’s 2023 Plan included the following justifications for how the Application satisfies the applicable review standards for campus plans set forth in Subtitle X §101.
39. **Subtitle X § 101.1: Educational Use by a College or University**: The University of the District of Columbia is operated as an academic institution of higher learning pursuant to D.C. Law 1-36, which consolidated the Federal City College, Washington Technical

Institute, and District of Columbia Teachers College into the University of the District of Columbia. (Ex. 2G.)

40. **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 University stated that the proposed use will be located so as not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable impacts as follows:
- **Noise**: Activities within the Campus Plan boundaries are located to minimize objectionable impacts due to noise. The bulk of the Lamond-Riggs Campus to the north and east is surrounded by low-moderate density residential uses that are generally sensitive to noise. To the west, is a mixed-use area, also sensitive to noise. Service activity generally occurs in the area off of Hamilton Street, N.E. protected by the retaining wall and tucked away from the residential street due to the topographic change. Further, under this Campus Plan, Wing D will enclose the center of the Lamond-Riggs Campus to reduce noise and separate student activities from the residential neighborhood; (Ex. 2G, 14, 24.)
  - **Traffic and Parking**: The Lamond-Riggs Campus is not likely to become objectionable due to traffic impacts. The Lamond-Riggs Campus is located 0.3 miles from the Fort Totten Metro station, which provides a convenient and reliable alternative transportation mode for students, faculty, and staff alike. In addition, the location along the intersection of South Dakota Avenue, N.E. and Galloway Street, N.E. provides accessibility to Metrobus services within walking distance. The entrance to the parking lots are located on the smaller roadways of Galloway Street, N.E. and Hamilton Street, N.E., which are directly accessed from South Dakota Avenue, N.E. and avoids the need for cars to enter the surrounding residential neighborhood. No additional parking is proposed as a part of the Campus Plan, which will avoid potential future impacts. The 2023 Plan also incorporated revised transportation demand management commitments to alleviate any traffic impacts; (Ex. 2G, 2G3, 2H1, 12, 12A, 14, 24.)
  - **Number of Students**: The Campus Plan anticipates a modest increase in student population at the Lamond-Riggs Campus, from the current approximately 1,800 students to a projection of approximately 3,000 by 2030. Given the availability of public transportation to the site, the number of students is not likely to become objectionable; and (Ex. 2G, 24.)
  - **Other Objectionable Conditions**: The Lamond-Riggs Campus is not likely to become objectionable for any other reason. Indeed, the Campus Plan offers improvements to on-campus sustainability that will significantly improve the campus condition and provide a benefit to the surrounding communities as well. In addition, as the only public institution of higher education in the District, the University offers all District residents with an opportunity for an affordable local education at all stages of adult life. The strengthening of the offerings at the Lamond-Riggs Campus will result in benefits to the entire university system. (Ex. 2G, 14, 24.)
41. **Subtitle X §§ 101.3 and 101.4: Analysis of Incidental Uses**: The Campus Plan process shall not serve as a process to create general commercial activities or developments

unrelated to the educational mission of the applicant or that would be inconsistent with the Comprehensive Plan. The Lamond-Riggs Campus currently has no ancillary uses, but in connection with the long term vision and this Campus Plan, the following uses are proposed: a café/coffee station, food service areas, and a campus bookstore. Ancillary uses that actively support the academic and clinical components of the University are encouraged at the Lamond-Riggs Campus. The nature and type of these uses on the Lamond-Riggs Campus are expected to evolve over the ten (10)-year term of the Campus Plan in order to meet the needs and mission of the University. The Campus Plan shows a small coffee station proposed in connection with Phase I, and enhancements to the coffee station are contemplated as part of Phase II. Expanded ancillary uses such as the bookstore and food service areas, which may provide services to the public, would also be contemplated as part of Phase II. These ancillary uses would be located interior to the Lamond-Riggs Campus, and as a result their operation does not impose objectionable impacts on non-university residential neighbors. Any future establishments and any potential objectionable impacts on non-university residential neighbors will be mitigated by consensus proposals at the time of a further processing application. Currently, with no ancillary uses at the Lamond-Riggs Campus, the total floor area of all ancillary uses occupies 0% of the total gross floor area. As detailed within the Campus Plan, the gross floor area of proposed ancillary uses is projected to occupy less than 8% of the proposed total gross floor area over the term of this Campus Plan. (Ex. 2G.)

42. **Subtitle X §§ 101.5 through 101.7 and 101.12: Campus Development Standards:** The Lamond-Riggs Campus is located in the R-2 Zone District. Pursuant to Subtitle X §101.5 of the Zoning Regulations, the total gross floor area of the Lamond-Riggs Campus is limited to a density of 1.8 floor-area-ratio (“FAR”). The additional gross floor area proposed in this Campus Plan together with the existing gross floor area of the Lamond-Riggs Campus will result in an FAR of 0.89, or 0.91, which is below the 1.8 FAR permitted under the Zoning Regulations. (As set forth in Subtitle X §101.7, such density does not include public streets and alleys, but it does include driveways within the Lamond-Riggs Campus boundaries). Subtitle X § 101.5 permits a maximum height of fifty (50) feet for campus buildings.<sup>3</sup> Campus buildings are proposed to a maximum height of fifty (50) feet, consistent with these regulations. (Ex. 2G, 2H1, 2H3.)
43. **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 2023 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 as follows: (Ex. 2G, 2H1-2H4, 14, 24.)
- *Section 101.8(a): Buildings, Parking, and Loading:* Upon completion of Phase II, the proposed Campus Plan will provide an additional 55,000 square feet of gross floor area, and parking space for approximately 118 vehicles. The 2023 Plan and CTR detail the locations of all existing and proposed parking and loading facilities; (Ex. 2G, 2H1-2H4, 12, 12A, 14, 24.)

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<sup>3</sup> Under Subtitle D § 203.6, the height may be increased to a maximum of 90 feet provided that each building is set back from lot lines at least one foot for each foot of height exceeding the 50-foot height limit.

- *Section 101.8(b): Screening, Signs, Streets and Public Utility Facilities:* The Campus Plan calls for substantial improvements to the campus walkway network and parking facilities, intended to improve pedestrian and vehicular movement through campus and minimize opportunities for pedestrian-vehicular conflicts. As an integral part of the Campus Plan, the University will enhance the prominence of open spaces on the Lamond-Riggs Campus and the connections between them to maximize their use and enjoyment in keeping with the University’s sustainability goals and campus initiatives. A common language of paving materials, site furnishings, plantings and supporting details such as lighting and building identification will help unify the campus environment. The University will enhance its visual and graphic communication on the Campus through updates to its wayfinding signage system and related design guidelines as part of the implementation of this Campus Plan; (Ex. 2G, 2H1-2H4, 14, 24.)
- *Section 101.8(c): Athletic and Other Recreational Facilities:* The Lamond-Riggs Campus does not currently include any actively used athletic and recreational uses. However, the Campus Plan provides for the development of new interior and exterior green spaces to foster outdoor recreational activities; and (Ex. 2G, 2H1-2H4, 14, 24.)
- *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 Lamond-Riggs Campus accommodates a wide range of uses and activities that not only fulfill the core mission of the University but also provide substantial opportunities and benefits for neighborhood and District residents. The capacity of all present and proposed campus development is sufficient to meet the needs of these activities for the 10-year term of this Campus Plan. (Ex. 2G, 2H1-2H4, 14, 24.)

44. **Subtitle X § 101.9: Further Processing for Specific Buildings, Structures, and Uses:** No further processing of specific buildings, structures, and uses will be submitted at this time. (Ex. 2G, 2H1-2H4, 14, 24.)
45. **Subtitle X § 101.10: No Interim Use of Land or Improved Property Proposed:** The University is not seeking any interim use of residentially-zoned land. (Ex. 2G, 2H1-2H4, 14, 24.)
46. **Subtitle X § 101.11: Compliance with The Comprehensive Plan:** The University provided evidence that the existing and proposed uses detailed in the 2023 Plan are not inconsistent with the FLUM and GPM designations of the Lamond-Riggs Campus as a Local Public Facility and as a Neighborhood Conservation Area, respectively. The Comprehensive Plan calls for “change and infill” on university campuses consistent with their approved campus plans. (CP § 225.22.) The University also provided evidence that the 2023 Plan furthers multiple relevant policies of the District Elements of the Comprehensive Plan Policies and the Upper Northeast Area Element. Further discussion of how the 2023 Plan furthers the relevant policies of the District Elements of the Comprehensive Plan Policies is set forth in the 2023 Plan and supplemental submissions.

47. In response to the Commission’s revised Racial Equity Analysis Tool (“Tool”) released on February 3, 2023,<sup>4</sup> the University submitted a racial equity analysis which outlined its community outreach and engagement for the Application and concluded that the 2023 Plan furthers the CP’s racial equity goals. The University demonstrated that it met the process goals of the Tool’s community outreach and engagement component through community outreach, including presentations to ANC 5A and meetings with constituents and civic organizations. (Ex. 2G, 2H1-2H4, 14, 24.)
48. **Subtitle X § 101.13: Referral to the District of Columbia Office of Planning, Department of Transportation, and Department of Energy and Environment:** The 2023 Plan was discussed with OP and DDOT prior to filing and was referred to OP and DDOT for their review and report. The Applicant communicated with DOEE and responded to comments from DOEE in the OP report. (Ex. 2G, 2H1-2H4, 14-16, 24.)
49. **Subtitle X § 101.14: Application is in Harmony with the Zoning Regulations:** The 2023 Plan is in harmony with the Zoning Regulations and the Zoning Maps, and will not adversely affect the use of neighboring property. The University seeks to develop a pleasant, safe, and vibrant campus and to continue serving underserved communities, as well its neighbors, thereby enhancing the neighborhood. (Ex. 2G, 2H1-2H4, 14, 24.)
50. **Subtitle X § 101.15: Small Deviations from Approved Plans:** The University requests flexibility to process the building renovations related to existing buildings without further processing approval provided these deviations meet the criteria of Subtitle X § 101.15. This will allow for a more efficient delivery of necessary building modernizations and upgrades. The proposed uses associated with these deviations are consistent with the uses currently operating and uses outlined in this Plan. (Ex. 2G, 2H1-2H4, 14, 24.)
51. **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 2023 Plan application. (Ex. 2G.)

#### IV. RESPONSES TO THE APPLICATION

##### **OFFICE OF PLANNING**

52. By report dated October 20, 2023 (the “OP Report,” Ex. 15.), OP recommended approval of the University’s application for a new campus plan, subject to the following conditions: (1) The maximum student enrollment and faculty shall be accepted at the proposed 3,000 students and 118 faculty; and (2) The 2023-2033 Campus Plan shall be valid for a period of 10 years.<sup>5</sup> (Ex. 15.) The OP Report concluded that the 2023 Plan would not be inconsistent with the Comprehensive Plan Maps; would further policies of the Districtwide/Citywide Elements and Upper Northeast Area Element; and would further

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<sup>4</sup> The Commission’s revised Tool includes new components and requires Applicants’ Racial Equity Analysis to include information about their community outreach and engagement efforts.

<sup>5</sup> In its post-hearing statement, as discussed above, the Applicant stated it agrees to the two conditions requested by OP. (Ex. 24.)

Comprehensive Plan racial equity goals. The OP Report further concluded that the 2023 Plan meets the applicable campus plan standards of Subtitle X § 101. OP noted the University met with ANC 5A, the UDC Advisory Committee, and various local civic groups and stakeholders in the Lamond-Riggs, Fort Totten, and Queens Chapel neighborhoods. (Ex. 15.)

53. The OP Report stated that DC State Historic Preservation Office recommends that the University conduct further research into the history of Bertie Backus School, summarized in a Determination of Eligibility Form, to make informed decisions about the preservation of the building.<sup>6</sup> (Ex. 15.)
54. The OP Report included a racial equity analysis which determined that the 2023 Plan would allow the University to increase its capacity to provide an affordable community college education within the District of Columbia. The OP Report noted that UDC is a Historically Black College/University (HBCU) that historically has provided a higher education at an affordable cost, making it accessible to a large number of students from diverse racial and economic backgrounds. The OP Report noted that the University met with various local civic groups and stakeholders in the Lamond-Riggs, Fort Totten, and Queens Chapel neighborhoods. The University also met with ANC 5A and the UDC Advisory Committee. The OP racial equity analysis did not provide disaggregated race and ethnicity data for the Upper Northeast Planning Area to illustrate various trends affecting the area as the Application’s proposal does not propose any residential uses.<sup>7</sup> Still, the OP Report did note that according to 2017-2022 census data, only 31% of the District’s Black residents have a bachelor’s degree and 30% have only a high school diploma while all other race/ethnic groups in the District have a higher percentage with a bachelor’s degree and a lower percentage with only a high school diploma. Accordingly, OP concluded that the 2023 Plan will provide more low-income Black students and all other students with an affordable higher education option in the District. (Ex. 15.)
55. The OP Report also included comments from DOEE, requesting that the 2023 Plan address deficiencies in the existing Urban Food Hub components and noting that net-zero energy standards could apply to the 2023 Plan.<sup>8</sup> (Ex. 15, p. 19.)

#### **DEPARTMENT OF TRANSPORTATION**

56. By report dated October 20, 2023 (the “DDOT Report,” Ex. 16.), DDOT recommended approval of the University’s application subject to the following conditions:
  - The proposed TDM plan and PMP in the University’s draft CTR will be updated with the following revisions noted in the TDM/PMP section at the end of the DDOT Report, including:

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<sup>6</sup> In its post-hearing statement, as discussed above, the Applicant responded to this recommendation. (Ex. 24.)

<sup>7</sup> The Commission’s revised Tool includes new components and requires OP’s Racial Equity Analysis to include disaggregated race and ethnicity data for the affected Planning Area of the zoning action. Because the Application does not propose residential uses, OP found that the revised Tool’s provision of disaggregated race and ethnicity data was not fully relevant to its consideration of the Application. Therefore, OP did not include all the disaggregated race and ethnicity data noted in the Tool in its racial equity analysis.

<sup>8</sup> In its post-hearing statement, as discussed above, the Applicant responded to DOEE’s comments. (Ex. 24.)

- Establishment of a trip cap or mode share goal to be approved by DDOT; and
- Prior to approval by the Commission, the Applicant shall provide a DDOT approved TDM plan and PMP for inclusion in the Order.  
(Ex. 16.)

57. DDOT also noted that the Applicant is expected to work with DDOT further on the following elements of the 2023 Plan: (1) public space, including curb and gutter, street trees and landscaping, street lights, sidewalks, curb ramps, and other features within the public rights of way, are expected to be designed and built to DDOT standards; (2) public space permits for all elements of the project proposed in public space. DDOT has noted they have several comments on the Applicant’s initial public space design which are noted later in the report to be resolved during the public space permitting process; (3) the Applicant should participate in a Preliminary Design Review Meeting (PDRM) to discuss the public space design with DDOT and OP; (4) submit a detailed curbside management and signage plan for review by Curbside Management Division (CMD), consistent with current DDOT policies. If meter installation is required, they will be at the Applicant’s expense; (5) ensure that pick-up/drop-off and loading activities are accommodated between Phases I and II without spilling onto the public roadway network; (6) coordinate with DDOT’s TDM team and goDCgo regarding the implementation of the TDM and PMP programs. The Applicant should submit future performance monitoring reports to the TDM Team for review, concurrence, and adjustment; (7) coordinate with DDOT’s Urban Forestry Division (UFD) and the Ward 5 Arborist regarding the preservation and protection of any Heritage, Special, or street trees, as well as the planting of new street trees, in bioretention facilities or a typical expanded tree planting space; (8) coordinate with DDOT’s Planning and Sustainability Division (PSD) on the design of the project’s short-term bicycle parking. PSD encourages the Applicant to move some of the short-term bicycle parking indoors to become long-term spaces and/or add a covering over the short-term spaces; and (9) coordinate with DDOT’s Active Transportation Branch to ensure that the South Dakota Avenue streetscape and proposed curb extensions are not inconsistent with the future South Dakota Avenue bicycle facility identified in moveDC. (Ex. 16.)
58. On November 20, 2023, the Applicant submitted a response to DDOT’s recommendations and approval conditions as part of a post-hearing submission. The post-hearing submission included a final TDM plan and PMP, along with correspondence with DDOT indicating that DDOT is in agreement with the Applicant’s final TDM plan and PMP. (Ex. 24.)

**ANC 5A**

59. ANC 5A submitted a report (the “ANC Report,” Ex. 18, 21.) expressing support for the 2023 Plan, while also identifying several suggestions and recommendations to bolster the 2023 Plan related to transportation, sustainability, community relations, and campus character:
- Transportation: ANC 5A recommended the Applicant fast-track pedestrian safety improvements including bump-outs on Hamilton and Galloway Streets; work with DDOT on addressing the deteriorating curb on the southern side of the 500 block of Hamilton Street, N.E.; incorporate pick-up and drop-off zones particularly at Galloway Street; highlight the importance of a Capital Bikeshare station near Campus; clarify the

loading and service layout and expected vehicle dimensions; engage with DDOT on anticipated surge in vehicular movement on Hamilton Street; and advocate for additional transportation enhancements around Campus;

- Sustainability: ANC 5A recommended the Applicant champion the Urban Food Hub program; effectively manage a potential farmers' market on Campus; foster enhanced communication among CAUSES, UDC officials, and neighbors; position recycling receptacles externally on South Dakota Avenue; and consider cleanup initiatives with the National Park Service near Galloway Street;
- Community Relations: ANC 5A recommended the Applicant curate extensive outreach and community engagement with local council offices, ANCs 5A and 4B, and community organizations; amplify outreach related to educational programs; and form synergies with The Parks Main Street to accentuate neighborhood vibrancy;
- Campus Character: ANC 5A recommended the Applicant utilize signage to weave CAUSES activities into the wider community fabric; synthesize community college programs with high-demand vocations; and consider instituting an internship program for high school students; and
- Additional Considerations: ANC 5A recommended the Applicant pinpoint a designated spot for pick-up/drop-off and deliveries; contemplate adding a Capital Bikeshare station and use conspicuous signage about bicycle parking; foster collaboration with DDOT on establishing wayfinding signs and enhancing connectivity; use native and pollinator-friendly flora; and curtail waste.

(Ex. 18, 21.)

60. The University addressed the ANC's concerns in its post-hearing statement, as described above. (*See* Finding of Fact ["FF"] No. 37; *see also* Ex. 24.)
61. Following the public hearing, ANC 5A submitted a supplemental letter dated November 30, 2023, highlighting its concerns and reiterating its recommendations from the ANC Report. The letter states that ANC remains concerned about the planned intersection changes at South Dakota Avenue and Hamilton Street and that the University should collaborate with DDOT to resolve existing parking issues at that intersection. The letter further stated that the University's strategic plan regarding the Urban Food Hub should be incorporated into the 2023 Plan. The ANC continued to encourage the University to advocate for a Capital Bikeshare station near Campus, and to agree to DDOT's request that the University enroll in WMATA's U-Pass program to encourage students to use transit. The ANC stated that the University should provide a clearer and more comprehensive community outreach plan. The ANC encouraged the University to post signage for the proposed pick-up and drop-off location off Galloway Street. (Ex. 26.)

#### **PERSONS/ORGANIZATIONS IN SUPPORT, OPPOSITION, OR UNDECLARED**

62. Uchenna Evans, a resident of Hamilton Street, N.E., submitted a letter dated October 27, 2023 providing her written testimony in response to the Application. Ms. Evans' letter raised various issues and concerns regarding the 2023 Plan and made several recommendations related to the Transportation, Sustainability, Community Relations, and Campus Character Elements, which are summarized as follows:



- Transportation Element: Ms. Evans urged the University to complete the planned transportation improvements along Hamilton Street and South Dakota Avenue in Phase I of the 2023 Plan as opposed to Phase II; work with DDOT to repair a curb cut on Hamilton Street; clearly identify pick-up and drop-off areas; consider installing a Capital Bikeshare station near the Campus; further explain the loading and service plan, including clarifying what types of trucks are expected to visit the site; and advocate for further transportation improvements including restoration of the yellow line service at Fort Totten Metro station and connecting the Campus to the Metropolitan Branch Trail;
- Sustainability Element: Ms. Evans urged the University to devote more attention to the Urban Food Hub and communicate more effectively with the neighborhood concerning its status; prioritize the creation of a farmers' market on Campus; add recycling receptacles on South Dakota Avenue; ensure the facilities plan includes regular mowing, upkeep, and trash pickup on Hamilton Street, Galloway Street, and South Dakota Avenue; consider planting native plants along the retaining wall on Hamilton Street NE; and possibly partner with the National Park Service to pick up trash along the parkland across Campus on Galloway Street;
- Community Relations Element: Ms. Evans urged the University to create a more substantive outreach and community engagement plan with specific recommendations regarding possible informational boards and open houses; develop a more robust plan for outreach regarding the University's continuing education courses; and work with neighborhood groups to further its vitality; and
- Campus Character Element: Ms. Evans urged the University to provide the broader community with more information about CAUSES activities; take advantage of relationships with employers and other agencies to bolster its career services for students; and develop an internship program for high school students.

(Ex. 20.)

### **PUBLIC HEARING OF OCTOBER 30, 2023**

63. The Commission held a public hearing on the Application pursuant to notice and convened via Videoconference at 4:00 p.m. on October 30, 2023. At the October 30 hearing, the University presented evidence and testimony from Maurice D. Edington, the University's President; Avis Russell, the University's General Counsel; Javier Dussan, the University's Vice President of Facilities and Real Estate Management; Daniel Solomon of Gorove Slade, qualified as an expert in traffic engineering; Meridith Moldenhauer, Esq. of Cozen O'Connor, land use counsel and Applicant representative; and Ronnie McGhee of R. McGhee & Associates. (Transcript from October 30, 2023 Public Hearing ["Tr.,"] at pp. 6-30.)
64. At the public hearing, an OP representative testified that OP reviewed the University's 2023 Plan and is supportive of the proposal. (Ex. 22; Tr. at pp. 87-88.)
65. At the public hearing, a DDOT representative testified that DDOT reviewed the University's 2023 Plan and has no objection to the proposal. DDOT noted that it was still working out final details of the TDM plan and PMP conditions and that the Applicant would submit the final agreed-upon language after the hearing. (Tr. at pp. 85-86.)

66. At the public hearing, the Commission heard testimony from Uchenna Evans, who testified as an undeclared individual. Ms. Evans acknowledged her support for many elements of the campus plans but identified a series of recommendations for the Zoning Commission to consider upon approval of the 2023 Plan, centering around community engagement and outreach and other issues raised in her written testimony at Exhibit 20, as summarized above. (Tr. at pp. 89-95; *see also* FF No. 62.)

### CONCLUSIONS OF LAW

1. 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 an R, RF, RA, MU-3A and MU-4 Zone Districts. Pursuant to Subtitle X § 101, the Commission shall evaluate an application for a campus plan as a special exception:

*Education use by a college or university shall be permitted as a special exception subject to review and approval by the Zoning Commission under Subtitle X, Chapter 9 after its determination that the use meets the applicable standards and conditions of this chapter. (Subtitle X § 101.1.)*

*Approval of a campus plan shall be based on the determination by the Zoning Commission that the application will be 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, in accordance with the Zoning Regulations and Zoning Maps, subject to the special conditions specified in this section. (Subtitle X § 101.14.)*

2. Section 8 of the Zoning Act (*see also* Subtitle X § 901.2.) establishes that the Commission may grant special exception relief upon its determination that the special exception:
- Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map;
  - Will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map; and
  - Complies with the special conditions specified in the Zoning Regulations.

The Commission’s discretion in granting a special exception is “limited to a determination whether the exception 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 prerequisites 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).)

3. Based upon the Findings of Fact above 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.
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 later.’” *Spring Valley-Wesley Heights Citizens Ass’n v. District of Columbia Zoning Commission*, 88 A. 3d 697, 705 (D.C. 2013) (citing *Glenbrook Road Association 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. Pursuant to Subtitle X § 101.2, the Commission concludes the 2023 Plan is not likely to become objectionable to neighboring property because of noise, traffic, parking, number of students, or other objectionable conditions.
  - Noise: The Commission concludes that the 2023 Plan is not likely to create objectionable conditions due to noise. The Commission agrees with the Applicant’s arguments that, while the campus is largely surrounded by low-to-moderate density residential uses that are sensitive to noise, service activity for the campus generally occurs in the area off of Hamilton Street, N.E. protected by the retaining wall and tucked away from the residential street due to the topographic change. Further, under the 2023 Plan, the proposed new construction of Wing D will enclose the center of the Lamond-Riggs Campus to reduce noise and separate student activities from the residential neighborhood;
  - Traffic and Parking: The Commission concludes that approval of the 2023 Plan is not likely to create objectionable conditions related to traffic or parking. The Application was supported by a CTR that was prepared by the Applicant’s transportation engineering experts, which used a methodology that was approved by DDOT. The CTR includes recommendations that will continue to enable the University to effectively mitigate its traffic and parking impacts and support the transportation network surrounding the University, focusing on the implementation of its TDM program and PMP 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 2023 Plan. The Commission acknowledges that ANC 5A and Ms. Evans both raised concerns regarding certain transportation-related elements of the 2023 Plan, including but not limited to the need to prioritize pedestrian safety improvements on Hamilton and Galloway Streets and establish a Capital Bikeshare station closer to Campus. (FF Nos. 59, 61, 62.) The Commission believes that the Applicant has adequately addressed those recommendations in its post-hearing submission at Exhibit 24, as summarized above. (FF No. 37.) The Commission is persuaded by the University's claims that it lacks the capital funding to accomplish all of its planned pedestrian improvements in Phase I of the 2023 Plan, but encourages the University to continue working with DDOT to explore other ways to address the safety concerns raised by the ANC. The Commission notes that the University has responded to the ANC's requests to identify dedicated pick-up and drop-off locations off Galloway Street and clarify the anticipated loading and service activities. The Commission understands that the total amount of vehicle parking is expected to decrease under the 2023 Plan (FF No. 32.) but believes that this will not result in objectionable impacts due to the Campus' proximity to transit and the University's plans to encourage non-vehicular means of travel and implement its TDM plan measures; (FF Nos. 35, 37, 40.)

- Number of Students: The Commission concludes that the Applicant's proposed student enrollment maximums are not likely to create objectionable conditions; and
- Other Objectionable Impacts: To the extent that new development is proposed in the 2023 Plan, the Commission believes that any other objectionable impacts that may arise will be most appropriately addressed in a separate Further Processing application for those specific developments.

(FF Nos. 37, 40, 52.)

6. Pursuant to Subtitle X §§ 101.3 and 101.4, the Commission concludes the Campus Plan will not create general commercial activities or developments unrelated to the University's educational mission or that would be inconsistent with the Comprehensive Plan. The Commission understands that the Campus Plan proposes certain ancillary commercial uses including a café/coffee station, food service areas, and a campus bookstore. The Commission believes these proposed uses meet the standards of Subtitle X § 101.3 because they will support the academic and clinical components of the University; are projected to occupy less than 8% of the total gross floor area of the Campus Plan; and will be located interior to the Campus so as to not become objectionable to neighbors. (FF Nos. 41, 52.)
7. Pursuant to Subtitle X §§ 101.5 through 101.7 and 101.12, the Commission finds the Campus Plan is consistent with the maximum height and FAR requirements in the R zones. (FF Nos. 42, 52.)
8. Pursuant to Subtitle X § 101.8, the Commission finds that the 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. (FF Nos. 43, 52.)
9. Pursuant to Subtitle X § 101.11, the Commission concludes the Campus Plan is not inconsistent with the Comprehensive Plan and will advance racial equity goals, based on the following:

- Comprehensive Plan Maps: The Commission finds the Campus Plan is not inconsistent with the FLUM and GPM designations for the Property, since it will facilitate the growth and development of a District-owned and operated community college without adversely impacting the surrounding neighborhood; (FF Nos. 46, 52.)
- Citywide Elements and Area Element: The Commission finds the Application is not inconsistent with the District-wide policies set forth under the Land Use, Educational Facilities, Economic Development, Environmental Protection, Community Services and Facilities, and Arts and Culture Elements and the Upper Northeast Area Element since it will allow the University to modernize and expand its higher educational and workforce development programs in a transit-accessible location for the benefit of its students and the District’s residents; and (FF Nos. 46, 52.)
- Racial Equity Lens: Overall, the Commission finds the Campus Plan will further the CP’s racial equity goals by allowing UDC to increase capacity and modernize its Lamond-Riggs Campus which provides an affordable education for minority students. The Commission reaches this conclusion based on the racial equity analyses provided by the Applicant and OP. (FF Nos. 36, 47, 52, 54.) The Commission notes the Applicant’s community outreach and engagement efforts. Specifically, the Applicant engaged with and presented the 2023 Plan to ANC 5A and various local civic groups. (FF Nos. 36, 47, 52, 54.) The Commission notes OP’s decision not to include disaggregated race and ethnicity data for the Upper Northeast Planning Area in its racial equity analysis, as required in the Tool. Given the Application—a campus plan development without any proposed residential uses—the Commission concurs with OP’s judgment not to provide disaggregated race and ethnicity data for the affected Planning Area. However, the Commission did find the disaggregated data comparing Black and other race/ethnicity education attainment in the District helpful, and is persuaded that the 2023 Plan will provide more low-income Blacks with an affordable higher education option. (FF No. 54.)

10. Pursuant to Subtitle X § 101.14, the Commission finds that the Campus Plan will be 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, for the reasons discussed above. (FF Nos. 49, 52.)

**“Great Weight” to the Recommendations of OP**

11. Pursuant to § 5 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 (2018 Repl.)) 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.)
12. OP submitted a written report recommending approval of the 2023 Plan, subject to certain conditions which are incorporated herein. The Commission finds persuasive OP’s recommendation that the Commission approve the Application and therefore concurs in that judgment.

### **“Great Weight” to the Written Report of ANC 5A**

13. 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).) (2012 Repl.) 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, District agencies 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 (1978).)
14. ANC 5A submitted three letters expressing approval of the 2023 Plan, and outlining a series of considerations to specific elements of the 2023 Plan to be explored by the Applicant. The Commission finds persuasive ANC 5A’s general approval of the Application and therefore concurs in that judgment. (FF Nos. 59, 61.) The Commission has considered the issues and concerns raised by the ANC and responds as follows:
- **Transportation**: The Commission acknowledges the ANC’s recommendations related to transportation and parking. (FF Nos. 59, 61.) The Commission is persuaded by the University’s explanation that it lacks the capital funding to implement all of its planned transportation improvements in Phase I but that it will do so during Phase II as well as work with DDOT on addressing other concerns regarding parking and vehicular traffic around Campus. The Commission notes that the University has identified a location for pick-up and drop-off activities and clarified the loading and service activities anticipated for the site, as requested by the ANC. The University has also agreed to implement a TDM plan and PMP that DDOT has approved, which will mitigate the anticipated traffic and parking impacts under the 2023 Plan; (FF Nos. 37, 56, 57, 58.)
  - **Sustainability**: The Commission acknowledges the ANC’s recommendations related to sustainability, including the need to bolster the Urban Food Hub program. (FF Nos. 59, 61.) These recommendations have been addressed by the Applicant. The University has agreed to enhance its Food Hub programming and will work to renew operations of the farmers’ market on Campus. In addition, the University stated that it will use native plantings in coordination with its landscape architects, as requested by the ANC. (FF No. 37.) While the Commission understands the University is committed to exploring sustainable waste removal strategies, the Commission believes that the ANC’s specific recommendation related to trash pickup on the parkland along Galloway Street is beyond the scope of this Application and need not be incorporated into the 2023 Plan;
  - **Community Relations**: The Commission acknowledges the ANC’s recommendations that the University adopt a more comprehensive community outreach and engagement strategy. (FF Nos. 59, 61.) The University has responded that it will implement outreach with its Director of Community Engagement, but that further commitments were not possible at this time due to budgeting and funding limitations. (FF No. 37.) The Commission is persuaded by the University’s response, but nevertheless urges the University to continue working with ANC 5A and neighborhood groups to bring more

attention and awareness regarding the University's educational and Food Hub programming;

- **Campus Character:** The Commission acknowledges the ANC's recommendations to incorporate more wayfinding signage, synthesize community college programs with high-demand vocations, as well as consider establishing an internship program for high school students. (FF Nos. 59, 61.) However, the Commission concludes that the University has adequately addressed these issues, by indicating that it will explore ways to implement wayfinding signage improvements around Campus as part of the 2023 Plan and explore internship opportunities. The University has also explained how it prepares pathways for its students to transition into workforce and bachelor's degree opportunities; and (FF No. 37.)
- **Additional Considerations:** The Commission is persuaded by the University's responses to the ANC's additional recommendations, including designating an area for pick-up and drop-off activities, adding a Capital Bikeshare station, and instituting wayfinding signage. (FF Nos. 59, 61.) As explained above, the Commission believes the University has provided satisfactory responses to these issues in its post-hearing statement. (FF No. 37.)

15. As discussed above, Ms. Evans echoed many of the issues and concerns raised by ANC 5A in her written and oral testimony. (FF Nos. 62, 66.) For the reasons stated above in Conclusion of Law 14, the Commission finds that the University adequately responded to Ms. Evans' concerns.

## **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:

### **Campus Plan Term**

1. The Campus Plan shall be valid for a period of 10 years.

### **Enrollment**

2. For the duration of the 2023 Plan, the maximum enrollment on the Lamond-Riggs Campus shall not exceed 3,000 students and 118 faculty.

### **Further Processing**

3. The University may construct the proposed Wing D as described in the 2023 Plan, subject to further processing review and approval pursuant to Subtitle X § 101 of the Zoning Regulations:
  - a. The location shall be within the area identified on the 2023 Campus Master Plan dated June 21, 2023 at Ex. 2G as modified by Ex. 24; and the Campus Master Plan diagrams

dated June 20, 2023 at Ex. 2H1-2H4 as modified by Ex. 14 of the case record for Z.C. Case No. 23-16; and

- b. The number of stories, gross floor area, and lot coverage shall be generally consistent with the development summary indicated in the University's June 21, 2023 Campus Master Plan submission;
4. The University shall provide the community with notice and an opportunity to review the proposed design of the new wing at least 60 days prior to filing of the application for further processing:
    - a. Notice of the University's intent to file the application ("Notice of Intent") shall be provided by U.S. Mail to ANC 5A and all owners of all property within 200 feet of the campus. In addition, the Notice of Intent shall be provided by U.S. Mail to all residents within approximately one block of Square 3757, Lot 802. The Notice of Intent shall state that the University intends to file an application to secure further processing approval to construct the new wing on University property, and shall provide the maximum square footage, description of common areas, and planned pedestrian and vehicular circulation adjacent to the new wing. In addition, the Notice of Intent shall provide a website address (URL) where more information about the proposed wing may be found, and the contact information (name, phone, and email) for a University representative that can be contacted for additional information. Finally, the Notice of Intent shall indicate the date, time, and location of the Preliminary Design Review meeting described below.

### **Student Conduct**

5. All students at the Lamond-Riggs Campus shall be required to comply with the University Code of Conduct.
6. The University shall use disciplinary intervention for acts of misconduct committed by students (i.e., 'violations of the Code of Conduct) in the surrounding community (which shall mean within one mile of the University), even if the students are not in properties owned or controlled by the University. The University shall act on incident reports submitted by persons including residents, ANC 5A, community associations, tenant associations, building management, the University's Office of Public Safety and Emergency Management, and the Metropolitan Police Department.
7. The University shall establish and maintain a relationship with the Metropolitan Police Department to secure referrals on all reports of complaints, infractions, or arrests of University students. The University shall maintain a log of all referrals received and all actions taken.

### **Transportation and Parking**

8. **For the Life of the Project**, the Applicant shall implement the following Transportation Demand Management ("TDM") measures:



- UDC will market all TDM programs on a detailed website, and in orientation packets for on-campus students and staff when they are hired;
- UDC will continue designating a TDM Coordinator, who will implement, monitor, and market the TDM programs, provide personalized commuter counseling to help members of the UDC population understand their options, and act as a point of contact with DDOT, goDCgo, and Zoning Enforcement. UDC’s TDM Coordinator will be Mr. Senai Simon, the University’s Director of Auxiliary Enterprises;
- Starting in the Fall 2024 semester, UDC’s Transportation Coordinator will develop, distribute, and market various transportation alternatives and options to employees and students, including promoting transportation events (i.e., Bike to Work Day, National Walking Day, Car Free Day) on relevant websites and in any relevant internal newsletters, communications, or displays. These materials will contain sections oriented to different users, including faculty/staff, students, and visitors. New faculty/staff hires will be provided with a similar packet of information;
- Parking permits are available for the Lamond-Riggs campus’ surface parking lots at the parking rate structure shown in the table below. Charging for parking will help deter single-occupant driver parking and raise revenue for TDM programs. The student, faculty and staff rates will be adjusted periodically to maintain a peak occupancy level within the parking lots of 80-90% on a typical weekday. The surface parking lots will be permit-parking only and cannot be accessed after 9:00 p.m., eliminating non-University vehicles from parking on site. Parking will be enforced by campus security staff:

**Parking Permit Rates (Fall 2023)**

Classification	One Semester	Fall and Spring	Fall, Spring, and Summer	First Summer Term	Second Summer Term	Both Summer Terms
Student	\$75	N/A	N/A	\$25	\$25	\$50
Staff	\$150	\$300	\$375	\$40	\$35	\$75
Faculty	\$150	\$300	\$375	\$40	\$35	\$75

- Starting in the Fall 2024 semester, UDC will provide Lamond-Riggs campus’ employees who wish to carpool with detailed carpooling information and will refer them to other carpooling matching services sponsored by the Metropolitan Washington Council of Governments (MWCOG) or another comparable service if MWCOG does not offer this in the future. UDC will also designate a minimum of two preferential carpooling spaces and one preferential vanpooling space in a convenient location within the parking lots, if demand exists;
- Starting in the Fall 2024 semester, UDC will designate at least two parking spaces for electric vehicle charging;
- UDC will work towards improving long-term employee and student non-SOV mode share over the life of the Campus Plan. As part of the agreed-to Performance Monitoring Plan (“PMP”), UDC will annually report mode splits and work with DDOT and goDCgo to improve employee and student non-SOV mode share over the life of the Campus Plan;

- UDC will offer enrollment in the SmartBenefits program, which allows for up to \$270 a month of pre-tax salary to be used for transit fares, to University employees;
- UDC will continue to explore opportunities to enroll both part-time and full-time students in the WMATA U-Pass program which provides unlimited Metrorail and Metrobus rides for students for a substantially discounted rate;
- UDC will provide information about bicycle riding in the District, bicycle routes between the Lamond-Riggs Campus and major destinations, and the location of bicycle parking and storage on campus;
- During Phase I, UDC will provide a minimum of 20, and up to 64 short-term bicycle parking spaces. UDC will provide 17 long-term bicycle parking spaces. As part of the annual Performance Monitoring Plan, occupancy data for bicycle parking will be collected and reported, and UDC will increase the amount of short-term bicycle parking on site with a goal of 85% occupancy (up to 64 short-term bicycle parking spaces). UDC will prioritize the placement of additional short-term bicycle parking spaces in covered areas;
- By the completion of Phase I, UDC will accommodate non-traditional sized bikes including cargo, tandem, and kids bikes in the long-term bicycle storage room, with a minimum of one space that will be designed for longer cargo/tandem bikes (10 feet by 3 feet), a minimum of two spaces that will be designed with electrical outlets for the charging of electric bikes and scooters, and a minimum of nine spaces that will be placed horizontally on the floor;
- During Phase II, UDC will provide a minimum of 20, and up to 92 short-term bicycle parking spaces. UDC will provide an additional eight long-term spaces, as well as six showers and 16 lockers for bicycle commuters. As part of the annual Performance Monitoring Plan, occupancy data for bicycle parking will be collected and reported, and UDC will increase the amount of short-term bicycle parking on site with a goal of 85% occupancy (up to 92 short-term bicycle parking spaces). UDC will prioritize the placement of additional short-term bicycle parking spaces in covered areas;
- By the completion of Phase II, UDC will accommodate non-traditional sized bikes including cargo, tandem, and kids bikes in the long-term bicycle storage room, with a minimum of one space that will be designed for longer cargo/tandem bikes (10 feet by 3 feet), a minimum of three spaces that will be designed with electrical outlets for the charging of electric bikes and scooters, and a minimum of 13 spaces that will be placed horizontally on the floor;
- UDC will market and encourage use of the existing nearby Capital Bikeshare locations at the Fort Totten Station (0.3 miles from campus) and at the intersection of 3<sup>rd</sup> Street, N.E. and Riggs Road, N.E. (0.4 miles from campus); and
- Starting in the Fall 2024 semester, UDC will offer Capital Bikeshare's University Membership program to students.

9. **For the Life of the Project**, the Applicant shall implement the following performance monitoring plan measures:

- The University shall monitor its parking supply on an annual basis and report to DDOT on Single Occupancy Vehicle (“SOV”) mode share reductions and implementation of TDM measures, with a goal of meeting an 80% non-automotive mode split.
- The University commits to a performance monitoring plan that requires it to:
  - Submit annual monitoring reports to DDOT once per year, for a minimum of two consecutive years, beginning with the 2024/2025 academic year;
  - Data collection will be performed on a yearly basis. Data collection will occur on a single typical day during the Spring semester when weather conditions are normal. A “typical” day is defined as a Tuesday, Wednesday, or Thursday when regular University hours are in effect, during a week without holidays, and far enough into the school year that students and faculty/staff members are accustomed to University operations; and
  - The monitoring reports will include details regarding the following:
    - Mode split of the campus population for trips to campus, broken down by students and employees;
    - Number of student, staff, and faculty parking permits sold;
    - Student, staff, and faculty parking permit rates;
    - Daily parking rates;
    - Number of registered carpools;
    - Number of employees enrolled in WMATA SmartBenefits;
    - Number and location of electric vehicle charging stations on campus;
    - Number and location of showers and changing facilities available on campus for bicycle commuters;
    - Inventory and occupancy of Lamond-Riggs parking lots;
    - Inventory and occupancy of long-term and short-term bicycle parking spaces; and
    - The monitoring reports will no longer be required to be submitted to DDOT when two consecutive annual reports demonstrate that the Applicant is in compliance with the 80% non-automotive travel requirements; This information will be collected using mode split surveys of students and employees, internal University data, and manual counts of vehicle and bicycle parking inventory and occupancy. Details regarding these data sources and collection techniques is provided below;
- Every year during the life of the Campus Plan, the University will conduct surveys of its students and employees to determine mode splits of trips to campus, which will be included in the annual monitoring reports. Mode split surveys will be collected on a typical weekday when large, representative population samples can be found. In order to have concrete, trackable year-to-year mode split data, it is recommended the phrasing of mode split survey questions include whether the respondent is a student or employee, and only ask for the travel mode the respondent used that day (not what they typically use according to memory). For ease of future analysis, it is recommended the University keep the raw survey data, separated by students and employees, on file. It is recommended that the mode split survey questions be phrased as follows:
  - Are you a:
    - Student;
    - Full-time employee;

- Part-time employee;
  - Contractor; or
  - Visitor;
- What transportation mode did you use for most of your trip to campus today?
  - Driving a car alone;
  - Driving a car with passengers;
  - As a passenger in a car;
  - Carshare (Zipcar, Free2Move);
  - Motorcycle;
  - Metrobus;
  - Metrorail;
  - Taxi;
  - Rideshare (Uber, Lyft);
  - Bicycle (personal);
  - Scooter (personal);
  - Capital Bikeshare;
  - Shared dockless e-scooter/bicycle (Lime, Bird, Jump, etc.);
  - Walk/jog/run; or
  - Other: please specify;
- What transportation mode did you use for the last part of your trip to campus today?
  - Driving a car alone;
  - Driving a car with passengers;
  - As a passenger in a car;
  - Carshare (Zipcar, Free2Move);
  - Motorcycle;
  - Metrobus;
  - Metrorail;
  - Taxi;
  - Rideshare (Uber, Lyft);
  - Bicycle (personal);
  - Scooter (personal);
  - Capital Bikeshare;
  - Shared dockless e-scooter/bicycle (Lime, Bird, Jump, etc.);
  - Walk/jog/run; or
  - Other: please specify; and
- Every year during the life of the Campus Plan, the University will collect the following internal data to be included in the annual monitoring reports:
  - Number of student, staff, and faculty parking permits sold;
  - Student, staff, and faculty parking permit rates;
  - Daily parking rates;
  - Number of registered carpools;
  - Number of employees enrolled in WMATA SmartBenefits;
  - Number and location of car-sharing spaces, alternative fuel vehicle parking spaces, and electric vehicle charging stations on campus; and
  - Number and location of showers and changing facilities available on campus for bicycle commuters.


10. The University shall encourage all visitors attending special events on campus to use transit or park in University or other area parking facilities. The University shall work with area institutions and commercial parking operators as well as use attendant parking to provide additional parking as needed during these events.
11. The University shall direct all construction traffic to avoid routes through the adjacent residential neighborhoods through contract provisions or similar mechanisms.


**Community Outreach**

12. University representatives shall attend ANC 5A’s monthly meeting, providing updates on the 2023 Plan process and continuing a line a communication between University leadership and community members and stakeholders.

On November 30, 2023, upon the motion by Vice Chairman Miller, as seconded by Commissioner Imamura, the Zoning Commission took **FINAL ACTION** to **APPROVE** the Application at its public meeting by a vote of **4-0-1** (Robert E. Miller, Joseph S. Imamura, Anthony J. Hood, and Tammy Stidham to approve; 3<sup>rd</sup> Mayoral Appointee seat vacant, not voting).

In accordance with the provisions of Subtitle Z § 604.9, this Z.C. Order No. 23-16 shall become final and effective upon publication in the *District of Columbia Register*; that is, on April 12, 2024.

  
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**ANTHONY J. HOOD**  
**CHAIRMAN**  
**ZONING COMMISSION**

  
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**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.