



**AMERICAN UNIVERSITY**

**APPLICATION FOR FURTHER PROCESSING OF A CAMPUS PLAN  
FOR THE RELOCATION OF THE WASHINGTON COLLEGE OF LAW  
TO THE TENLEY CAMPUS**

**BEFORE THE DISTRICT OF COLUMBIA  
ZONING COMMISSION**

Application of American University

ANC 3E & 3F  
Hearing Date:

**APPLICATION FOR FURTHER PROCESSING OF A CAMPUS PLAN FOR THE  
RELOCATION OF THE WASHINGTON COLLEGE OF LAW TO THE TENLEY  
CAMPUS**

**I. STATEMENT OF EXISTING AND INTENDED USE AND RELIEF SOUGHT**

This is an application of the American University (“AU” or “Applicant”) for further processing of its proposed 2011-2020 Campus Plan (“2011 Campus Plan”), pursuant to Section 210 of the Zoning Regulations. AU filed its Campus Plan on March 18, 2011, which is currently being reviewed by the Zoning Commission. In this application, AU requests approval of the relocation of the Washington College of Law (“WCL” or “Law School”) to the Tenley Campus, which is currently used for AU’s Washington Semester Program, office/administration space, and student residences. As noted in the Campus Plan application, all of the current undergraduate uses on the Tenley Campus (including the 497 residential beds which currently exist in Congressional, Capital, and Federal Halls) will be relocated to AU’s Main Campus.

The Washington College of Law is a highly regarded and prestigious 115 year old institution, ranked among the top 50 law schools in the United States. Established in 1896 by two pioneering women, the Law School was founded on principles of community service. The founders imbued the college with a commitment to prepare lawyers for crucial roles in the development of society, business and government with an emphasis on individual freedoms and international rights. In 1947, the Washington College of Law became part of American University. Today the Law School advances its original mission with innovation and creativity that distinguish it amongst its peers, enabling a rigorous legal education that instills a passion for legal issues and a genuine commitment

to moral and social values. The institution actively promotes a sense of interconnectedness and openness that breaks down barriers and fosters greater social awareness, community and inclusiveness. Nationally recognized for legal programs that emphasize experiential learning, international law (human rights and commercial arbitration), law and government, and environmental and intellectual property, the Washington College of Law is a prominent stakeholder in the national legal education infrastructure and a vital resource for the District of Columbia and the regional legal community.

Washington College of Law's distinguished national reputation and top 50 ranking are attributable to the school's diversity, academic excellence, legal clinics, accomplished faculty and vibrant and engaged student population. Preservation of its reputation and continuance of the institutional mission are highly dependent on quality facilities that facilitate progressive legal education and enable efficacy, flexibility and interconnectedness.

The WCL has resided in its current 4801 Massachusetts Avenue location since 1996 and has outgrown the capacity and effectiveness of the existing facility. Originally constructed as a retail and office structure, the current building has been adaptively reconfigured over the years to support the Law School's operational needs, with increasingly limited success. Key functions are significantly compromised by structural limitations, resulting in inefficiency and programmatic dysfunction. Instructional and dining spaces are undersized and inflexible; library areas are inadequate and functionally compromised; faculty and administrative office suites are insufficient and lack proper adjacencies; student areas are undersized and over utilized. The existing structure's limitations have hindered the Law School's ability to function efficiently, resulting in less than optimal operations and an inability to achieve greater potential. To address some of these deficiencies, the Law School has rented additional office space at three other nearby locations. The remoteness of these alternate

locations inhibits collaboration and promotes a sense of isolation that is counter to the institution's priorities of interconnectedness and community.

The Washington College of Law is part of an elite group of top tier law schools that provide superior legal education opportunities and valuable resources to the local, regional and national legal community. The spatial composition and infrastructural organization of top tier legal institutions is critical to their effectiveness and success. Modern law school facilities support dynamic institutions that are comprised of unique, disparate programmatic components, integrated and unified into a single legal education complex that supports a strong sense of internal community. Architecture and infrastructure are often leveraged to maximize flexibility and reinforce the cohesion of this community by providing adequate spatial relationships and adjacencies that foster meaningful engagements and support spontaneous interaction. Building infrastructure is configured to promote adaptability and encourage informal academic discourse by providing common areas and circulation spaces that are manifested in the form of atria, commons or law forums. These spaces are often configured to function as the symbolic and formal heart to a facility and represent the identity of the institution and its community.

The current 195,000 square feet 4801 Massachusetts Avenue facility and additional 16,000 square feet of adjacent rented office space is not capable of supporting the Law School's evolving operational and pedagogical needs, nor is it capable of supporting an appropriate legal education environment for a progressive top tier institution. The Law School has leveraged every available resource over the last 15 years to promote its mission and sustain its growing prestige and national reputation, but continuing to achieve effective results is no longer viable within the existing facilities.

This Further Processing application seeks approval of a fully integrated 300,000 – 310,000 square foot law school facility, with parking for approximately 400 to 450 vehicles (approximately 400 parking spaces will be provided in two below-grade parking levels and approximately 40-50

parking spaces will be retained in an existing surface parking lot which is accessed from an existing curb cut on Yuma Street), to fulfill the Washington College of Law's current and anticipated spatial, programmatic and operational needs. The program for the new facility has been specifically developed and configured to support a student population of 2,000 with supporting resources for 500 law school faculty and staff.

In addition to the special exception relief for the relocation of the WCL to the Tenley Campus pursuant to Section 210 of the Zoning Regulations, the Applicant is requesting that the Zoning Commission grant variance relief from Section 400.9 of the Zoning Regulations to allow the proposed buildings along Yuma Street and Nebraska Avenue to be sited as shown in the plans and materials included in the attached Exhibit A. The Applicant's satisfaction of the variance relief standards is discussed in detail in Section V of this statement.

## **II. DESCRIPTION OF THE TENLEY CAMPUS AND THE SURROUNDING AREA**

The property that is the subject of this application is the Tenley Campus of American University (4340 Nebraska Avenue NW - Square 1728, Lot 1). The Tenley Campus is included in the R-1-B Zone District and is located approximately one mile northeast of AU's main campus. The Tenley Campus contains approximately eight acres of land area and is currently improved with five primary buildings: freestanding Dunblane and Congressional Halls and the connected Capital, Federal, and Constitution Halls. The buildings range in age, with completion dates ranging from the mid 19<sup>th</sup> Century to the mid-1950s. Most of the buildings, with the exception of Dunblane, are concentrated at the eastern end of the campus near Tenley Circle. The western edge of campus is mostly wooded and contains trees, open green space, and recreation fields. The property is irregularly shaped, with Yuma Street bordering the site to the north; Warren Street bordering it to the south; Nebraska Avenue and Tenley Circle border it to the east; and 42<sup>nd</sup> Street borders it to the west.

The topography of the Tenley Campus varies significantly across the site with a high point of elevation 412' adjacent to Yuma Street and a low point of elevation 381' at Tenley Circle. The center of the proposed building façade along Yuma has a grade elevation of 406' at the curb line. This is approximately 20 feet higher than the 386' curb line elevation at the center of the proposed façade along Nebraska Avenue. Along Yuma Street and Nebraska Avenue, the grade elevation of the Tenley Campus property and the adjacent right-of-way is approximately the same. However, along 42<sup>nd</sup> Street and the western portion of the property along Warren Street, the grade elevation of the Tenley Campus property is approximately 13 feet above these adjacent rights-of-way.

The area surrounding the Tenley Campus includes single-family homes located to the west of 42<sup>nd</sup> Street and south of Warren Street. Institutional uses, such as St. Ann's Church and School and the Convent of Bon Secours are located directly across Yuma Street to the north, with single family residential buildings further west along Yuma Street. Residential uses are also located across Nebraska Avenue from the Tenley Campus. The busy Wisconsin Avenue commercial corridor is directly to the east of the Tenley Campus. This commercial corridor contains moderate density commercial uses, most of which are retail. The two entrances to the Tenleytown Metro Station are located approximately one block north along Wisconsin Avenue.

### III. HISTORIC PRESERVATION BACKGROUND, COMMUNITY DIALOGUE PROCESS AND PROJECT DESCRIPTION

#### A. Historic Landmark Applications Currently Pending on the Tenley Campus

The Tenleytown Historical Society ("THS") has submitted three landmark applications for individual buildings located on the Tenley Campus, and ultimately the entire property. The first application (#08-11) was for Dunblane, a building located on the far western portion of the Tenley Campus that dates back to the mid-19<sup>th</sup> Century. In approximately 1974, an addition was made to the original Dunblane House. In 1995, a significant fire ravaged the original Dunblane structure. AU rebuilt the structure and currently uses the Dunblane building for administrative offices and

some classrooms. This landmark application focuses primarily on the house's nineteenth century significance.

The second historic landmark application filed by THS (#09-04) was focused on the use of the Tenley Campus property by the Sisters of Providence of St. Mary of the Woods, which established a school for girls on the site, the Immaculata Seminary. This landmark application detailed the history of the school, its role in the development of the Roman Catholic enclave at Tenleytown, and its role in the development of education for young women. Although this landmark application covers the entire Tenley Campus, it is fundamentally about the original Immaculata building (now known as Capital Hall), a 1921 addition to Capital Hall, and the chapel that is located on the back of Capital Hall.

The third historic landmark application (#11-08), appears to be a revision of application #09-04, and also seems to incorporate the Dunblane landmark application. This third (and expected to be the last) landmark application focuses on the history and development of the Immaculata Seminary and specifically includes Dunblane, the buildings on the Tenley Campus that were constructed on or about 1955 (now known as Federal Hall, Congressional Hall, and the Constitution Building), and the entire Tenley Campus as elements of the significance of the landmark.

The Applicant and its design team have been working with representatives of the Office of Planning (OP) and the Historic Preservation Office (HPO) on a design of the WCL facilities which addresses the pertinent historic attributes of the buildings and Tenley Campus property, as outlined in this third historic landmark application. The Applicant filed a conceptual design review application with the HPO on August 22, 2011 and expects the Historic Preservation Review Board (HPRB) to review the conceptual design review application at the HPRB's public meeting on September 22, 2011.

## B. Community Dialogue Process

AU engaged in a dialogue with representatives of ANC 3E, the Tenley Campus Neighborhood Association (TCNA), Ward 3 Vision (W3V), and nearby residents from late 2010 – spring 2011. The goal of this process was to allow each of the parties to articulate their goals and concerns for the development of the Tenley Campus and the relocation of the Washington College of Law to the Tenley Campus. This process included representatives from the Law School and AU's architectural team, as well as an architect selected by TCNA. This group met six times.

In addition to these meetings, AU and its architects engaged in two design meetings with representatives of OP, HPO, ANC 3E, ANC 3F, TCNA, THS, W3V, and community representatives. These meetings were facilitated by Office of Planning Director Harriett Tregoning, who focused the group on the establishment of basic design principles which would then serve to guide potential modifications and refinements to specific elements of the campus design. Many issues were reviewed and discussed including: site development priorities; building massing; height and density; vehicular and pedestrian access; landscape character; parking facilities; historic preservation; building program; and neighborhood amenities.

While agreement was not reached among the meeting participants as to AU's plans for the Tenley Campus, certain design principles were reviewed and some consensus was achieved. These design principles included:

- Creation of a highly effective and functional facility for WCL that builds upon the college's rich heritage and enhances its academic resources and diverse programs;
- Concentration of development density on the eastern portion of the Tenley Campus in order to minimize the visual impact on the surrounding neighborhoods;



- Development of a meaningful campus aesthetic that maintains accessibility to open areas and green space to the Tenley Campus and creates an appropriate relationship to the adjacent community, including the Wisconsin Avenue commercial corridor.
- Maintenance of the organizational principles that informed the existing condition and influenced the nature of the central green space and sense of academic campus that has evolved over time;
- Locating new and renovated buildings largely within the footprints of the existing structures on the Tenley Campus, and maintain existing site access points and curb cuts;
- Maintenance and enhancement of the landscape buffers along Warren, 42<sup>nd</sup>, and Yuma Streets;
- Preservation and strengthening of the historic character of the Tenley Campus (including Capital Hall and Dunblane); and
- Leveraging the Tenley Campus' proximity to the Tenleytown Metro Station, including but not limited to, redeveloping the Capital Hall Lawn at Tenley Circle to create a more welcoming forecourt.

C. Detailed Description of the Proposed Tenley Campus

Development of the new Washington College of Law on the Tenley Campus will be manifested as a collection of unique and dignified institutional structures that embrace and fully incorporate historic Capital Hall, its chapel and Dunblane House. The new structures will be configured to define a prominent new identity for the Law School while also honoring the rich historic legacy of its site and the organizational principles that informed its character. New building masses are carefully located to preserve the existing academic courtyard and much of the existing topography, mature trees and landscape character. The proposed new construction will require the demolition of three existing structures: Congressional Hall, Federal Hall and Constitution Building.

All three structures were constructed in 1955 by the Immaculata School and are considered not architecturally significant, nor are they viable for law school use based on a detailed building assessment commissioned by AU.

Redevelopment of the Tenley Campus provides an opportunity to redefine the lawn in front of Capital Hall to better engage pedestrian activity and public access from Tenley Circle. This aspect of the proposed design is a direct result of a constructive dialogue process with the community and addresses many of the concerns expressed by neighbors and OP. This component of the project also strengthens the identity of Capital Hall as part of the Washington College of Law along the prominent Wisconsin Avenue corridor. The new lawn area will direct circulation around Capital Hall and focus access to two new primary entry courts that frame the foreground for the two new buildings on the Tenley Campus.

A new Yuma Street court will facilitate convenient access from the Tenleytown Metro Station and provide entry directly into the academic courtyard, Capital Hall and the new academic and office wing. A new Nebraska Avenue court will provide entry into the new academic and library wing while also providing access to the academic courtyard through an existing building “hyphen”. Originally constructed in 1955, the “hyphen” is a low covered walkway that currently links Capital Hall and Congressional Hall. This porous architectural element is constructed of concrete, limestone and field stone and will be preserved and adapted to connect Capital Hall to the new Nebraska Avenue structure. The Nebraska Avenue building presents the most prominent new façade for the Washington College of Law and will establish the civic identity for the institution. The Law School’s ceremonial courtroom and formal library reading room will articulate this face of the new structure and provide a dignified scale and presence to this important corner.

The balance of the Tenley Campus will be enhanced by a densely planted perimeter landscape zone which will include walking paths that encircle Dunblane House and extend along Warren Street, 42<sup>nd</sup> Street and Yuma Street.

### Capital Hall Renovation

Capital Hall is a four story structure constructed in approximately 1903 in the baroque revival style with primary street frontage along Wisconsin Avenue at Tenley Circle. A chapel and L-shaped addition were added to the original structure between 1919 and 1921. The L-shaped addition is also four stories and extends the floor levels of the existing structure and provides additional street frontage to the south along Nebraska Avenue. The chapel is located west of the original structure and does not have a prominent street façade. The primary street façades of Capital Hall consist of monolithic masonry walls fenestrated with vertical punched windows and finished with limestone masonry veneer. Architectural embellishments include faceted bay windows, articulated cornices, projecting sills, belt courses, dentals and keystones. Non-street facades, including the chapel, consist of utilitarian monolithic masonry walls with very little architectural embellishment. The main building entry level is elevated 8 feet above grade at elevation 405' with a lower level partially below grade at elevation 392'. Capital Hall was adaptively renovated into student housing after American University acquired the property in 1986. Subsequent projects have included the installation of a new roof, new aluminum framed insulated windows and masonry repair and repointing.

The proposed renovation of Capital Hall will be primarily focused on interior spaces, adapting most of the existing structure for office and small meeting use. The lower level will be converted to student offices for legal briefs and journals. The first level will accommodate administrative support offices that require student accessibility such as Student Affairs, Financial Aid and the Registrar. Other administrative offices will occupy the majority of the second level and third

levels. The chapel will be renovated to accommodate the WCL Trial Advocacy program, adapting the main sanctuary into a ceremonial moot courtroom and the lower level into multiple flexible teaching courtrooms. Capital Hall's existing HVAC system will be completely replaced with new systems that will be fully integrated with those of the new buildings.

Capital Hall's existing exterior service court will be enclosed and converted into an enclosed atrium to facilitate connections to the new Yuma Street building at the first, second and third levels. This new atrium space will be activated by a small café and will function as a central orientation point and common area for the east end of the WCL campus.

No changes are proposed for the primary exterior façades of Capital Hall. Any work to the exterior at these locations will be focused on the restoration and maintenance of the historic structure. The service court facades will become enclosed to form the proposed atrium and new openings will be created within the masonry walls of the stair tower adjacent to the chapel to facilitate connections to the Yuma Street building. Exposed portions of utilitarian brick on the non-primary facades may be enhanced by the application of a limestone slurry or stucco material.

#### New Nebraska Avenue Building

The proposed four story Nebraska Avenue building will command a prominent presence along this important corridor and serve as a formal entrance to the new law school facility. The entry court associated with this building will include formal landscaping, exterior seating, a drop-off area and a vehicular drive providing access from Nebraska Avenue to the below grade parking structure. The entry floor will accommodate the Law School's ceremonial courtroom, a large lobby intended for small gatherings and receptions and several large format tiered classrooms. The second, third and fourth floors will accommodate the Pence Law Library and feature both formal and informal study areas, group study rooms, library collections, public legal resources and administrative support areas.

The exterior facades of the Nebraska Avenue building will be composed primarily of brick masonry with large expanses of glass and aluminum curtainwall and limestone veneer. Fenestration will be developed to maximize the iconic quality of these prominent facades to convey a dignified image appropriate for the Washington College of Law.

The total building height for this four story structure, measured from the midpoint of the facade along the Nebraska Avenue curb line, is 63 feet to the top of the roof. The lowest occupied level of the structure will be set at elevation 392', exclusive of the below-grade parking structure. The closest corner of the building at Nebraska Avenue is setback 12.74 feet from the property line, with the closest corner along Warren Street setback 39.92 feet from the property line. The Nebraska Avenue building will include approximately 87,000 square feet of above grade space, roughly distributed equally amongst the four levels. Driveways for a vehicular drop-off lane and entrance ramp to the two level below-grade parking structure will extend from the east façade of the building to Nebraska Avenue. The vehicular drive will allow traffic to pull-in, drop-off passengers, and turn-around without advancing to the garage entrance.

#### New Yuma Street Building

The proposed Yuma Street building will be four stories above grade and will be the closest new structure to Capital Hall and the chapel. This new structure has been carefully configured to respectfully engage with Capital Hall without undermining its formal integrity or architectural character. A narrow and transparent architectural link will enclose the existing service court adjacent to Capital Hall, providing connectivity between the upper levels of the Yuma Street building and Capital Hall. The link is also configured to be open at the base to provide at-grade pedestrian access to the courtyard without entering the building. The balance of the Yuma Street façade has been designed to minimize the apparent mass of the structure relative to the nearby lower scale residential

context. This structure has been articulated into several smaller scale elements that formally relate in mass and proportion to the adjacent neighborhood.

The Yuma Street façade and massing has generated a significant amount of discussion, dominating much of the community dialogue and design guidance offered by HPO. The proposed design effectively addresses the majority of the concerns expressed during the community dialogue process, while conveying an elegant and dignified architectural expression consistent with AU and WCL's expectations. Similar to the Nebraska Avenue facades, the exterior facades of the Yuma Street addition will be composed primarily of brick masonry with large expanses of glass and aluminum curtainwall and limestone veneer.

Originally conceived as three stories above grade, the Yuma Street addition was reconfigured to include an additional level to address neighbor and OP concerns. This upper level is set back significantly from the lower levels and allows the length of the architectural mass along Yuma to be minimized. The total building height, as measured from the midpoint of the building façade at the Yuma Street curb line to the top of the upper level, is 59 feet. The main roof surface below the upper level aligns with the roof of the Nebraska Avenue building at elevation 449' and is 43 feet above the measuring point at Yuma Street. No mechanical penthouses are proposed for the Yuma Street building. At its closest point to the Yuma Street property line, the upper level of the Yuma Street building is setback 29.34 feet from the property line. The closest corner of the lower levels of the building are set back 11.27 feet from the property line.

The Yuma Street building will include approximately 158,000 square feet of space. Consistent with the Nebraska Avenue building, the lowest occupied level of the structure will be set at elevation 392'. Because of the 20 foot grade change across the site, this level is almost completely below grade at the Yuma Street building. This lowest level will include large instructional spaces, tiered classrooms, student organization offices, student lockers, and meeting space. The ground

floor level will include additional classrooms and a dining facility with kitchen and servery. The second level above grade includes faculty offices, a faculty lounge, clinic and trial advocacy teaching spaces, as well as clinic spaces and clinic break out classrooms. The third level above grade includes additional faculty office space and clinic space with the top floor left to accommodate the remaining large instructional spaces and tiered classrooms.

The Yuma Street building and the Nebraska Avenue building will be linked by a 60 foot wide below-grade connector that will serve as a student commons, furnished with library style seating and tables. The roof of the commons will be animated with sculptural skylights and partially paved to facilitate its use as an exterior event space. The skylights will also provide access to natural light in the commons area below and greatly enliven the space.

#### Interior of the Tenley Campus and Dunblane

In consultation with HPO and OP representatives, the Applicant and its design team have spent significant time and effort to ensure that the proposed development preserves the existing courtyard and maintains much of its organizational character and mature landscaping. To this end, the building design will be configured to maintain existing pedestrian circulation patterns from Yuma Street and Nebraska Avenue. To further activate this exterior space, the structured terrace that links the Nebraska Avenue and Yuma Street buildings will be furnished with flexible seating and tables. Additionally, the terrace will be configured to accommodate occasional social gatherings and events. It is envisioned that this area will become a popular focal point for the Law School community and function as a vital part of the college's vibrant social environment.

Due to the significant fire that resulted in the loss of almost all of the historic fabric of the Dunblane House, AU initially proposed to demolish this entire structure. However, in response to concerns raised by various members of the surrounding community (including THS representatives), AU has agreed to retain the historic components of the Dunblane House. While AU does not

propose to remove any portion of the 1974 addition to the Dunblane House at this time, it does reserve the right to do so in the future. AU anticipates that WCL uses of Dunblane will include administrative offices, Alumni Affairs and offices for visiting faculty and scholars. The interior, which currently contains faculty administrative office space, may require minor reconfiguration to accommodate these new uses. Minor repairs are anticipated to the exterior façade, but the exterior appearance will remain unaltered from its current condition.

### Sustainable Design

Improvements to the Tenley Campus will prioritize and actively promote environmentally sustainable development principles. Carbon emissions and fossil fuel consumption will be minimized by facilitating access to the site via multiple modes of public transportation, including city and campus buses and Metrorail. Site amenities will include bicycle racks and shower facilities to encourage bicycle commuting. Innovative management of solar heat gain, stormwater quantity and quality, potable water use and HVAC refrigerants will be implemented to minimize negative environmental effects. Building systems and site infrastructure will be designed for optimum performance to minimize energy consumption. Construction materials will be specified that require minimal embodied energy and maximize recycled content or are rapidly renewable. Interior spaces will promote healthy environments by minimizing airborne contaminants and maximizing personal comfort by providing effective and adaptable HVAC systems and by emphasizing access to natural light and views. The objective of attaining LEED Gold Certification has been established for the project.

### Conclusion

The Applicant and its design team have often faced conflicting input regarding the proposed design from HPO, the community, and WCL representatives as to what each group would like to see guide the development of the Tenley Campus. For example, HPO initially raised concerns about



the Yuma Street building's height and its relationship to Capital Hall, which led HPO to seek a building of lower height which extended further to the western edge of the Tenley Campus. This guidance conflicted with concerns of TCNA representatives, who have sought to keep development focused on the eastern edge of the property. In addition, the goals of making the interior of the Campus more open and accessible, creating a sense of porosity in the WCL campus design, have at times conflicted with WCL's goals of creating a truly integrated campus with physical connections between all buildings. Despite these often conflicting pressures, the Applicant believes that the project described in the text herein and depicted in the attached Exhibit A has become a better project as these concerns and issues (as well as numerous other design-related issues) have been discussed, analyzed and fleshed out in the design process discussed above. The Applicant and the design team truly believe that this campus has become a more efficient, more effective, and ultimately a better designed project that meets WCL's fundamental programmatic requirements as a result of this process.

#### IV. COMPLIANCE WITH THE REQUIREMENTS OF SECTION 210 OF THE ZONING REGULATIONS

As described in detail below, the proposed Tenley Campus satisfies the special exception standards enumerated in Section 210 of the Zoning Regulations.

A. College or university which is an academic institution of higher learning (Subsection 210.1)

AU was chartered by an Act of Congress in 1893 and founded under the auspices of the United Methodist Church. AU's proposed relocation of WCL to the Tenley Campus and the use of the Tenley Campus as a law school qualifies as a college or university use in accordance with Section 210 of the Zoning Regulations.

B. Use as a college or university shall be so located so that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students or other objectionable conditions (Subsection 210.2)

*1. No Adverse Impacts Related to Noise Will Result from the Use of the Tenley Campus as the Washington College of Law*

The massing, siting, and functions of the new buildings proposed on the Tenley Campus have been carefully selected to minimize noise and visual impacts on any neighboring properties. Most importantly, the design of the Tenley Campus follows and perpetuates the green aesthetic that characterizes all AU campus property. As noted in the design principles which guided the proposed development of the Tenley Campus, development is focused at the eastern end of the site, away from the nearby residential areas, and closer to Wisconsin Avenue. The height and bulk of the new buildings have been located and sited so that they will not create adverse visual impacts on neighboring properties and will blend harmoniously with the rest of the campus. As shown in the proposed site plan included in Exhibit A, the western end of the new Yuma Street building (which is roughly in-line with the front of the first single-family home on Yuma Street facing the Tenley Campus) is setback 78.52 feet from the Yuma Street property line and 176.23 feet from the front of that single-family home. Noticeable activity at the law school will be concentrated on its two principal entrances on Nebraska Avenue and on Yuma Street near Tenley Circle. Classes are scheduled from 8:30 am to 10:00 pm Monday through Thursday and 8:30 am to 2:00 pm on Friday. Peak class times are Monday – Thursday 10:00 am to 7:00 pm. The library is accessible to students 24 hours a day, but is only lightly used after 10:00 pm.

While Capital Hall and Dunblane House will be retained, the new buildings will generally be constructed to preserve an open campus space at the interior similar to the existing configuration. Landscaping will encircle the Tenley Campus' perimeter, and open green space will dominate most of the campus' western side. In addition, a significant number of the existing large, mature trees will be retained. Therefore, neighboring residential areas will be buffered from any noise or visual impacts by landscaping, mature trees and distance from the new buildings.

2. *No Adverse Impacts Related to Traffic and Parking Will Occur as a Result of the Relocation of the WCL to the Tenley Campus*

The proposed redevelopment of the Tenley Campus will not create adverse traffic or parking impacts on neighboring properties. Transportation consultants from Gorove/Slade have prepared a Preliminary Transportation Impact Study (TIS) on the impacts of the development plan proposed for the Tenley Campus. This document is attached as the Appendix to this statement. The Preliminary Transportation Impact Study concludes that the proposed relocation of the Washington College of Law to the Tenley Campus will not have an adverse impact on the local transportation network and conforms with the District's stated goals of promoting multi-modal transportation and environmental sustainability.

The university encourages the use of public transportation by all members of the AU community, and this will particularly be the case for WCL students and staff at the Tenley Campus. Between 1995 and 2010, shuttle use nearly doubled, increasing 195%. These shuttle buses connect the Main Campus with the Tenleytown Metrorail Station, the Tenley Campus, and the existing WCL campus. This extensive use of the shuttle bus system increases the availability of parking on campus and promotes safe and efficient circulation of traffic on and near the campus. With the relocation of the WCL to the Tenley Campus, the university expects that shuttle bus ridership will increase, that use of public transit will increase (Metro and bus), and that use of automobiles will decrease.

In the Applicant's May 20, 2011 pre-hearing statement in the Campus Plan application, AU committed to a significant Transportation Demand Management ("TDM") Program. Specific components of that program which are applicable to the Tenley Campus include:

- AU will maintain the car-sharing service space currently on the Tenley Campus during construction and will ensure its replacement on campus after construction;

- AU will construct 100-125<sup>1</sup> long-term secured and enclosed bicycle parking spaces and 40 short-term bicycle parking spaces meeting DDO<sup>T</sup> standards on the Tenley Campus, the use of these spaces will be monitored and the numbers increased if the average weekday use is over 85%; and
- AU will provide funds for a Capitol Bikeshare station to be located on the Tenley Campus, to supplement the existing Main Campus station.

The proposed redevelopment of the Tenley Campus will include the construction of a below-grade parking garage that will include approximately 400 parking spaces. The existing surface parking lot, which is accessed from Yuma Street, will be reduced to approximately 40-50 spaces and will be used to accommodate staff parking demand. As noted on p. 23 of the Appendix, the current WCL peak parking demand on a typical weekday is approximately 410 spaces occurring around 2:00 PM and then again at 5:30 PM. The Preliminary TIS prepared by Gorove/Slade includes a parking demand model that calculates the future demand for parking spaces based on the proposed increase in the student and staff/faculty population and the percentage of these populations that will drive to the Tenley Campus. That model is included below.

<b>Driving Mode Split Assumption</b>		<b>Future Parking Demand at Tenley Campus</b>
<i>Students</i>	<i>Faculty/Staff</i>	
55%	90%	470
51%*	88%*	450
50%	85%	435
45%	80%	400

<sup>1</sup> The May 20, 2011 pre-hearing statement noted that 50 long-term secured bicycle parking spaces and 20 short term bicycle parking spaces would be provided on the Tenley Campus. Upon further review, AU determined that there was likely demand for a significantly larger number of bicycle parking spaces.

40%	75%	360
40%	70%	355
35%	65%	315

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\* Existing Mode Splits at WCL

Based on the parking demand analysis above, were there no changes to mode splits of WCL students, faculty and staff, the peak daily parking demand would be 450 spaces. A modest decrease in driving due to relocating the school close to the Metrorail station would lead to a peak demand of 400 spaces. This report recommends using a typical peak demand of 400 spaces as the design assumption for the Tenley Campus.

The future supply of parking on the Tenley Campus is proposed to be 400 to 450 spaces. Approximately 400 parking spaces will be provided in two below-grade parking levels and approximately 40-50 parking spaces will be retained within the existing surface parking lot accessed from an existing curb cut along Yuma Street. In addition, parking on the Main Campus will be available to the Tenley Campus as needed, similar to how the Katzen garage serves a portion of the current WCL demand (the AU shuttle system provides a link between campuses). Thus, this report concludes that the amount of parking is sufficient to accommodate the projected demand of 400 spaces. Non-typical demand, such as demand generated by larger than normal events can be accommodated through the demand in excess of 400 spaces, whether it is supplied on the Tenley Campus or the Main campus.

(see p. 25 of the [Appendix](#)).

Access to the 400 below-grade parking spaces and a vehicular drop-off lane will be from Nebraska Avenue in relatively the same location as one of the existing curb cuts. As noted on p. 20 and 69 of the [Appendix](#), this vehicular access point will be constructed as a one-way stop-controlled intersection with the north-and southbound approaches of Nebraska Avenue free-flowing through the intersection. Additionally, a northbound left turn lane is proposed in order to provide a queuing area for vehicles turning into the Tenley Campus. This proposed vehicular entrance for the Tenley Campus is projected to operate under acceptable conditions during the morning and afternoon peak hours. Access to the 40-50 surface parking spaces will be from an existing curb cut on Yuma Street.

WCL faculty, staff and students are prohibited from parking on the nearby residential streets. An off-campus parking enforcement program has been in place at the Law School since 1996. Surrounding streets are patrolled and citations issued to violators. While the university believes this program has been effective in minimizing university-related parking on neighboring streets,

neighbors have asked that “more teeth” be put into the enforcement mechanism. This year, a new parking policy has been adopted that will strengthen enforcement. Formerly, fines were \$75 for each offense but the new policy escalates fines to \$100 for violations after the first offense. Additionally, WCL members are now subject to “administrative penalties, up to and including Honor Code violations and/or disciplinary action”. The university believes that these changes will improve its ability to minimize off-campus university-related parking.

Loading traffic, which will have a considerably smaller daily volume than automobiles, will enter the site from Yuma Street via an existing curb cut. The number of trucks expected to utilize the loading facilities is expected to be approximately 6-8 per day and will not typically include trucks that are longer than 40 feet.

Therefore, the provision of 400-450 parking spaces will be sufficient to accommodate the expected parking demand for WCL students, faculty/staff, and visitors to WCL sponsored events. In addition, the provision of 400-450 parking spaces on the Tenley Campus strikes an appropriate balance between accommodating the expected parking demand for WCL uses and events, while not adversely impacting the surrounding transportation network by adding too many new vehicles. AU believes that the WCL off-campus parking policies discussed above will effectively address any adverse impacts regarding the availability of parking on the surrounding neighborhood streets. For all of these reasons, the proposed redevelopment of the Tenley Campus will not create adverse traffic or parking impacts on neighboring properties.

*3. No Adverse Impacts Related to the Number of Students/Faculty/ or Staff Will Occur as a Result of the Relocation of the WCL to the Tenley Campus*

The proposed Tenley Campus will not create any adverse impacts related to the students and staff who will attend classes and work at the law school. As noted in the Campus Plan hearing process, the Washington College of Law currently has a population of 1,770 students. This Further Processing application proposes that the number of law students be increased to 2,000 by the year

2020. In addition, this Further Processing application proposes that the number of faculty and staff at the Law School will be increased to approximately 500 people.

As noted in the public hearing process for the 2011 Campus Plan, for the existing WCL facility the maximum number of people on the WCL campus at any one time is approximately 840 people, which occurs at 11:00 AM on Wednesdays. Since the classes, operations, and events of the Law School are not expected to change with the relocation to the Tenley Campus, applying the current ratio of the number of students to the maximum number of people expected on the campus at any one time is still appropriate. Therefore, it is expected that no more than 950 people associated with WCL will be at the Tenley Campus at any one time, when the Law School achieves the projected populations of 2,000 students and 500 faculty/staff.

During the Campus Plan hearing process, TCNA representatives raised the issue of the number of continuing legal education (CLE) and Founder's Events that are held by the WCL and whether the impact of those events are being adequately reviewed in the Campus Plan and Further Processing review processes. As part its academic mission, the Law School offers a variety of conferences and hosts events, including CLE classes. While many events are open to the public, the vast majority of attendees are American University faculty, staff or students. WCL held 110 events spread throughout the 2010-11 Academic Year, with approximately 8,200 total people attending those events. (An outline of these events, including: description; date; time; and number of internal and external attendees are provided in Exhibit B.) Of that total, only 2,231 (27%) were non-university people. The maximum number of non-university people at any single education program or CLE program was 150. Events are scheduled so they do not conflict with the normal academic schedule or each other, so their impact on the day-to-day functioning of the law school is minor. Because of the increased size of the new law school facility and the projected increase in population, the number of events is expected to grow modestly. Given the rather small outside audiences for

these events and the careful scheduling of these events, the Law School's hosting of CLE Programs and other events will not have an adverse impact on the neighboring community.

In their filings and testimony for the Campus Plan application, TCNA has noted that AU proposes a fivefold increase in the intensity of the use of the Tenley Campus. This is not technically correct, and moreover, the proposed intensity of use of the Tenley Campus by the Law School is entirely appropriate. The maximum number of students that are expected to be on the Tenley Campus at any one time is expected to be approximately 950 students, and that will occur in the middle of the day, during the middle of the week. There is never an instance in which all of the proposed 2,000 law students and all of the proposed 500 staff/faculty will be present on the Tenley Campus. As noted above, the CLE programs and other events hosted by WCL are predominantly attended by people who are affiliated with WCL. These events are not likely to generate an additional large amount of visitors to the Tenley Campus. The physical size of the Tenley Campus (8 acres), the proposed siting of the new WCL facilities, and the Tenley Campus' proximity to ample public transportation will allow the campus to accommodate the proposed number of students, faculty/staff, and visitors to the site without creating any adverse impacts on neighboring properties.

*4. No Adverse Impacts Related to Other Objectionable Conditions Will Occur as a Result of the Relocation of the WCL to the Tenley Campus*

The proposed development of the Tenley Campus will not create any other adverse impacts or other objectionable conditions on nearby properties. The proposed buildings will be concentrated away from the residential areas nearby, and the trees and landscaping along the campus perimeter will provide significant buffers from both sound and visual impacts. The historic buildings (Capital Hall and Dunblane) will be preserved and incorporated into the new campus, and new buildings will be constructed on existing footprints to the greatest extent possible; thus, the site will maintain its existing configuration and aesthetic. Since many students and faculty/staff are likely to use public transit due to the site's proximity to a Metro station and multiple bus lines, and the



amount of traffic to/from the site is small compared to that along Nebraska and Wisconsin Avenues, traffic is unlikely to be adversely affected by the redevelopment of the Tenley Campus.

**C. Compliance with the Maximum Bulk Requirements (Subsection 210.3)**

AU's 2011 Campus Plan proposes a total FAR of 0.9, which is well within the 1.8 FAR permitted in the R-1-B Residential District.

**D. Submission of a Plan for Developing the Campus as a Whole (Subsection 210.4)**

As noted above, AU filed a Campus Plan application for the period 2011-2020 on March 18, 2011. The proposed redevelopment of the Tenley Campus detailed in this Further Processing application was identified in the Campus Plan application materials.

**E. No Interim Use of Land is Proposed (Subsection 210.5)**

No interim use of land is requested as part of this Further Processing application or the Campus Plan application.

**F. No New Use Sought for Approved Site of Buildings Moved Off Campus (Subsection 210.6)**

The relocation of the Washington College of Law to the Tenley Campus is proposed in the pending 2011 Campus Plan application, so there is no new use proposed for the site.

**G. Compliance with the Policies of the District Elements of the Comprehensive Plan (Subsection 210.7)**

The proposed relocation of WCL to the Tenley Campus is not inconsistent with numerous policies of the District Elements of the Comprehensive Plan and policies from the Rock Creek West Area Element.

***Policy LU-1.3.2: Development Around Metrorail Stations***

Concentrate redevelopment efforts on those Metrorail station areas which offer the greatest opportunities for infill development and growth, particularly stations in areas with weak market demand, or with large amounts of vacant or poorly utilized land in the vicinity of the station entrance. Ensure that development above and around such stations

emphasizes land uses and building forms which minimize the necessity of automobile use and maximize transit ridership while reflecting the design capacity of each station and respecting the character and needs of the surrounding areas.

***Policy LU-1.3.4: Design To Encourage Transit Use***

Require architectural and site planning improvements around Metrorail stations that support pedestrian and bicycle access to the stations and enhance the safety, comfort and convenience of passengers walking to the station or transferring to and from local buses. These improvements should include lighting, signage, landscaping, and security measures. Discourage the development of station areas with conventional suburban building forms, such as shopping centers surrounded by surface parking lots.

***Policy LU-3.2.2: Corporate Citizenship***

Support continued “corporate citizenship” among the city’s large institutions, including its colleges, universities, hospitals, private schools, and non-profits. Given the large land area occupied by these uses and their prominence in the community, the city’s institutions (along with the District itself) should be encouraged to be role models for smaller employers in efforts to improve the city’s physical environment. This should include a continued commitment to high quality architecture and design on local campuses, expanded use of “green building” methods and low impact development, and the adaptive reuse and preservation of historic buildings.

***Policy LU-2.3.5: Institutional Uses***

Recognize the importance of institutional uses, such as private schools, child care facilities, and similar uses, to the economy, character, history, and future of the District of Columbia. Ensure that when such uses are permitted in residential neighborhoods, they are designed and operated in a manner that is sensitive to neighborhood issues and that maintains quality of life. Encourage institutions and neighborhoods to work proactively to address issues such as traffic and parking, hours of operation, outside use of facilities, and facility expansion.

***Policy ED-2.4.1: Institutional Growth***

Support growth in the higher education and health care sectors. Recognize the potential of these industries to provide employment and income opportunities for District residents, and to enhance the District’s array of cultural amenities and health care options.

***Policy EDU-3.3.2: Balancing University Growth and Neighborhood Needs***

Encourage the growth and development of local colleges and universities in a manner that recognizes the role these institutions play in contributing to the District’s character, culture, economy, and is also consistent with and supports community improvement and neighborhood conservation objectives. Discourage university actions that would adversely affect the character or quality of life in surrounding residential areas.

***Policy RCW-1.1.8: Managing Institutional Land Uses***

Manage institutional land uses in the Rock Creek West Planning Area in a way that ensures that their operations are harmonious with surrounding uses, that expansion is carefully controlled, and that potential adverse effects on neighboring properties are minimized. Ensure that any redevelopment of institutional land is compatible with the physical character of the community and is consistent with all provisions of the Comprehensive Plan and the underlying zoning rules and regulations. Densities and intensities of any future development on such sites should reflect surrounding land uses as well as infrastructure constraints and input from the local community.

As discussed throughout this statement, the siting, mass, building heights and uses of the proposed facilities on the Tenley Campus have been designed based on input from the community. AU is proposing the redevelopment of the Tenley Campus in a manner that is consistent with the goals of encouraging development around Metrorail stations with high quality architecture and the adaptive reuse and preservation of historic buildings. Through the community dialogue process discussed earlier in this statement, the proposed redevelopment of the Tenley Campus furthers the goals of fostering the growth and development of higher education institutions, while addressing the policies of adequately protecting the character of surrounding residential areas. Finally, both the Future Land Use Map and the Generalized Policy Map designate the Tenley Campus as institutional. As noted by OP representatives in response to cross-examination questions in one of the Campus Plan hearings, the proposed use of the Tenley Campus by WCL is entirely consistent with this Land Use Map designation.

**H. The Proposed Buildings are Within the Floor Area Limit for the Campus as a Whole (Subsection 210.8)**

The approximate gross floor area of each of the proposed uses on the Tenley Campus is shown in the table below.

<b><u>Proposed Use</u></b>	<b><u>Approximate Gross Floor Area</u></b>
Instructional Facilities	74,400 sf

Law Library	67,500 sf
Administrative Offices	35,500 sf
Faculty Offices	37,500 sf
Law Clinics	11,100 sf
Student Spaces	62,000 sf
Centers and Programs	22,000 sf

Approval of this Further Processing application will result in the entire campus having a FAR of approximately 0.9, which is within the approved FAR for the campus as a whole under the proposed campus plan.

**V. REQUESTED VARIANCE RELIEF**

Section 400.9 of the Zoning Regulations states:

An institutional building or structure may be erected to a height not exceeding ninety feet (90 ft.); provided, that the building or structure shall be removed from all lot lines of its lot a distance of not less than one foot (1 ft.) for each foot of height in excess of that authorized in the district in which it is located.

The Tenley Campus is located in the R-1-B Zone District, which permits a building height of 40 feet. So, a 50 foot institutional building is permitted on the Tenley Campus provided it is setback from the property line by 10 feet. At its closest point to the Yuma Street property line, the Yuma Street building is set back 11.27 feet from the property line. At that point, the Yuma Street building has a measured building height of 50 feet (which is consistent with the purpose of the 1:1 setback enumerated in Section 400.9). At its tallest point, the Yuma Street building has a measured building height of 59 feet. This upper level of the Yuma Street building is setback from the edge of the building and is in fact setback 29.34 feet from the property line along Yuma Street. The Zoning Administrator has interpreted Section 400.9 in such a manner that requires all of the Yuma Street

building be setback at least 19 feet from the property line (based on the highest point of the building having a measured building height of 59 feet), even though the height of the building at the smallest setback from the property line is only 50 feet. Therefore, the Applicant is requesting variance relief from Section 400.9 of the Zoning Regulations.

At its closest point to the Nebraska Avenue property line, the Nebraska Avenue building is setback 12.74 feet from the property line. (The setback from the Warren Street property line is 39.92 feet and 69.55 feet.) The Nebraska Avenue building has a measured building height of 63 feet. Pursuant to Section 400.9, the Nebraska Avenue building is required to be setback from the Nebraska Avenue property line a distance of 23 feet. Therefore, the Applicant is requesting variance relief from Section 400.9 of the Zoning Regulations for this building as well.

The burden of proof for area variance relief is well established. The Applicant must demonstrate that (1) the property is affected by an exceptional or extraordinary situation or condition, that (2) the strict application of the Zoning Regulations will result in a practical difficulty to the Applicant, and that (3) the granting of the variance will not cause substantial detriment to the public good nor substantially impair the intent, purpose or integrity of the zone plan. Palmer v. D.C. Bd. of Zoning Adj., 287 A.2d 535, 541 (D.C. 1972). As outlined below, this project satisfies the three-part test for area variance relief.

A. *The Property is Affected by an Exceptional Condition*

The Court of Appeals held in Clerics of St. Viator v. D.C. Bd. of Zoning Adj., 320 A. 2d. 291 (D.C. 1974) that the exceptional situation or condition standard goes to the property, not just the land. The Court in Monaco v. D.C. Bd. of Zoning Adj., 407 A.2d 1091 (D.C. 1979) went even further and noted that the exceptional situation or condition is not limited to the land or the physical improvements on the land, but applies also to the history of the property. Furthermore, the Court of Appeals held in Gilmartin v. D.C. Board of Zoning Adjustment, 579 A.2d 1164, 1167 (D.C.

1990), that it is not necessary that the exceptional situation or condition arise from a single situation or condition on the property. Rather, it may arise from a “confluence of factors.” *Id.* Finally, it is not necessary that the Property be unreservedly unique. Rather, applicants must prove that a property is affected by a condition that is unique to the property and not related to general conditions in the neighborhood.

In this case, the Property is unique because of the historic landmark applications pending on the property, the shape of the Tenley Campus site, and the varied topography of the Tenley Campus. The pending historic landmark applications are unique to the Tenley Campus. These landmark applications are not related to general building types or patterns of development that occur throughout Tenleytown. Rather, these applications refer to specific buildings (Capital Hall and Dunblane) on the Tenley Campus and the overall history of development on this specific site as an educational institution. The trapezoidal shaped property and the significant grade changes of approximately 20 feet from Yuma Street to Nebraska Avenue are also factors that contribute to the uniqueness of this property. The confluence of these factors results in a site that is subject to an exceptional situation or condition.

B. *Strict Application of the Zoning Regulations would Result in a Practical Difficulty*

The appropriate test is whether the strict application of the zoning regulations results in a “practical difficulty.” In reviewing the standard for practical difficulty, the D.C. Court of Appeals stated in Palmer v. Board of Zoning Adjustment, 287 A.2d 535, 542 (D.C. App. 1972), that “[g]enerally it must be shown that compliance with the area restriction would be unnecessarily burdensome. [Footnote omitted.] The nature and extent of the burden which will warrant an area variance is best left to the facts and circumstances of each particular case.” In area variances, applicants are not required to show “undue hardship” but must satisfy only “the lower ‘practical difficulty’ standards.” Tyler v. D.C. Bd. of Zoning Adj., 606 A.2d 1362, 1365 (D.C. 1992) (citing

Gilmartin v. Bd. of Zoning Adj., 579 A.2d 1164, 1167 (D.C. 1990)). Finally, it is well settled that the BZA may consider “a wide range of factors in determining whether there is an ‘unnecessary burden’ or ‘practical difficulty’ . . . Increased expense and inconvenience to the applicant for a variance are among the factors for BZA's consideration.” Gilmartin, 579 A.2d at 1171 (citing Barbour v. D.C. Bd. of Zoning Adj., 358 A.2d 326, 327 (D.C. 1976)); see also Tyler v. D.C. Bd. of Zoning Adj., 606 A.2d 1362, 1367 (D.C. 1992). Other factors to be considered by the BZA include: “the severity of the variance(s) requested”; “the weight of the burden of strict compliance”; and “the effect the proposed variance(s) would have on the overall zone plan.” Gilmartin, 579 A.2d at 1171. Thus, to demonstrate practical difficulty, an applicant must show that strict compliance with the regulations is burdensome, not impossible.

As noted above, the Applicant and its design team have been faced with often conflicting design proposals from members of the community and HPO regarding the siting, height and massing of the proposed facilities. The goals of creating an integrated and unified single education complex of sufficient size for the Law School have at times conflicted with historic preservation concerns and the concerns of the nearby residential property owners. These conflicting pressures, while they have resulted in an overall better project, create a practical difficulty for the Applicant.

#### Yuma Street Building

The siting, mass and height of the Yuma Street building has been driven by the need to address the HPO concerns of creating an appropriate spatial relationship between the new structure and the likely historic Capital Hall, along with the concerns of the Yuma and 42<sup>nd</sup> Street residential property owners of focusing new development on the eastern end of the Tenley Campus. The addition of the proposed top floor of the Yuma Street building allows the Law School to create a new facility which meets its programmatic needs and allows the entire building to be moved further

away from the residential properties on Yuma and 42<sup>nd</sup> Streets. However, it is this top floor of the Yuma Street building which requires the requested variance relief.

The proposed building does not present a flat, monolithic appearance along Yuma Street. Rather, the Yuma Street façade includes a series of elements that are setback from the Yuma Street property line at variety of distances. These different setbacks are guided by the generally trapezoidal shape of the property as well as the goals of creating an appropriate presence on Yuma Street for WCL that serves as another entrance to the Tenley Campus. The Yuma Street building at its highest point is 59 feet tall and it is setback 29.34 feet from Yuma Street. When the building is only setback 11.27 feet from the Yuma Street property line, the height of the building is only 50 feet tall. When the building is setback 14.01 feet from the property line, the height of the building is only 43 feet tall. As discussed above, the actual setbacks and building heights of each element of the Yuma Street building satisfy the 1:1 setback requirement that is at the heart of Section 400.9. So, the actual severity of the variance requested is very small.

In addition, the weight of the burden of strict compliance is significant. Another HPO issue which guided the siting of the Yuma Street building was the need to create an interior campus courtyard of sufficient width that is in keeping with the history of an educational institution on the Tenley Campus. If the Applicant was required to push all of the Yuma Street building 19 feet back from the Yuma Street property line it would adversely impact the quality and character of the interior courtyard space, yet would likely have very little discernible visual impact along Yuma Street.

The impact of granting this variance on the overall zone plan is minimal. In fact, it would be entirely appropriate for the Zoning Commission to determine that no variance relief from Section 400.9 is in fact needed for this structure. For the reasons described above, requiring the Applicant to push the entire Yuma Street building back 19 feet from the Yuma Street property line is



unnecessarily burdensome and the Applicant is faced with a practical difficulty in satisfying the strict requirements of Section 400.9.

### Nebraska Avenue Building

The design, siting, and massing of the Nebraska Avenue building has been guided by WCL's goals of creating a dignified scale and presence to the Nebraska Avenue frontage of the Tenley Campus, with HPO's goals of retaining the 1955 "hyphen" structure between Capital Hall and the new structure, and the residential property owner's goals of pushing development towards the eastern part of the Tenley Campus. The trapezoidal shape of the Tenley Campus creates a pinch point where this structure approaches Nebraska Avenue and it is at this pinch point that the structure is setback from the Nebraska Avenue property line by 12.74 feet. This pinch point occurs near the intersection of Nebraska Avenue and Warren Street.

Once again the severity of the variance requested is minimal and the burden associated with strict compliance is great for the Applicant. The amount of the Nebraska Avenue building which is not setback 23 feet from the Nebraska Avenue is not a large proportion of the overall size of the structure but it is vitally important to conveying the building's presence along Nebraska Avenue. If the Applicant was forced to push the building further away from Nebraska Avenue, there would be detrimental impacts on HPO's concerns regarding the relationship of the new structure to the 1955 building "hyphen" and WCL's goals of creating an appropriate presence for the Law School along the Nebraska Avenue corridor. Moreover, given the location of this pinch point in the property, where the nearest residential uses are located across the 100 foot wide right-of-way of Nebraska Avenue, there is no adverse impact on the overall zone plan if this variance is granted.

For the reasons described above, requiring the Applicant to push a portion of the Nebraska Avenue building further away from Nebraska Avenue near the intersection of Nebraska Avenue and

Warren Street is unnecessarily burdensome and the Applicant is faced with a practical difficulty in satisfying the strict requirements of Section 400.9.

C. Relief can be Granted without Substantial Detriment to the Public Good and without Impairing the Intent,

Purpose, and Integrity of the Zone Plan

Granting the requested variance relief will not impair the intent, purpose or integrity of the Zone Plan. As noted throughout this statement, the Applicant has thoughtfully designed the Yuma Street building and the Nebraska Avenue building to limit the adverse visual and noise impacts on surrounding residential properties. The amount of setback relief necessary to locate these buildings as shown in the attached plans is insignificant compared to the benefits that the location of these buildings brings to the overall development of the Tenley Campus. Granting this relief will allow the Law School to relocate its facilities to the Tenley Campus in a manner that effectively and appropriately addresses the needs and concerns of WCL, OP/HPO, and the surrounding residential community.

**VI. EXHIBITS**

In support of this application, the following exhibits are attached to this document:

- EXHIBIT A Architectural Plans, Sections, Perspectives, Photo Simulations, and Elevations of the Proposed WCL Facilities on the Tenley Campus
- EXHIBIT B Outline of Events, Seminars and Continuing Legal Education Programs from the 2010-2011 Academic Year
- EXHIBIT C Application, self-certification form, agent authorization letter, and building plat
- EXHIBIT D List of property owners within 200 feet of the Tenley Campus and the Main Campus
- APPENDIX Preliminary Transportation Impact Study for the Washington College of Law's relocation to the Tenley Campus

**VII. CONCLUSION**

For all of the reasons above, the University respectfully requests that the Zoning Commission approve the further processing of the Campus Plan as described herein.

GOULSTON AND STORRS, P.C.

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Paul Tummonds

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