

Exhibit F

ZONING COMMISSION
District of Columbia

CASE NO. 07-23

EXHIBIT NO. 15 (TAB "F")

Government of the District of Columbia
ZONING COMMISSION



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ZONING COMMISSION ORDER NO. 954
Case No. 01-25CP/16553
(Campus Plan and Further Processing – George Washington University)
January 14, 2002

This Decision and Order arises out of an application by the George Washington University ("University" or "Applicant") for special exception approval pursuant to 11 DCMR § 3104.1, and in accordance with § 210 of the Zoning Regulations, for further processing under an approved campus plan to authorize the construction and use of a new School of Business and Public Management on the campus of the University at premises 2201 G Street, N.W. (Square 56, Lot 30).

HEARING DATE: December 13, 2001

DECISION DATE: January 14, 2002

SUMMARY ORDER

The Commission incorporated into the record of Case No. 01-25CP/16553 two previously heard George Washington University further processing cases (Case Nos. 01-20CP/16553 and 01-21CP/16553) and one additional processing case, Case No. 01-23P/16553, which was heard jointly with this case.

Advisory Neighborhood Commission ("ANC") 2A was a party in this proceeding. No additional requests for party status were made.

The Applicant previously submitted a plan for developing its campus as a whole, showing the location, height, and bulk of all present and proposed improvements as required by 11 DCMR §210.4, hereinafter the "approved Campus Plan for the George Washington University for Years 2000 Through 2010" or the "approved Campus Plan". The Board of Zoning Adjustment approved the plan by order dated March 29, 2001. The Board clarified that order, on remand, by order dated December 11, 2001. The Board's order of March 29, 2001, and the remand order of December 11, 2001, directs the University to take decisive steps to house 70% of its full-time undergraduate students within the campus boundaries. To that end, the remand order directs the University to provide beds for at least 5,600 full-time undergraduate students on campus, or outside of the Foggy Bottom/West End area, no later than August 31, 2002. In addition, beginning in August 2002, the remand order directs the University to provide one bed on campus, or outside of the Foggy Bottom/West End area, for each full-time undergraduate student in excess of the University enrollment of 8,000. The remand order directs the University to

ZONING COMMISSION
District of Columbia

CASE NO. 07-23
EXHIBIT NO. 15 (TAB "F")

the aforementioned housing requirements exclusively by on-campus housing no later than August 31, 2006.

The Applicant proposes to construct a new School of Business and Public Management on a surface parking lot adjacent to Fungler Hall at 2201 G Street, N.W. (Square 56, Lot 30). The subject site was designated for academic/administrative use in the approved Campus Plan.

Square 56 is bounded by 23rd Street, G Street, 22nd Street, and H Street, N.W. The proposed project will be developed as an addition to Fungler Hall, which occupies the southern portion of the square along G Street from 22nd to 23rd Streets.

The proposed project will replace an existing surface parking lot located immediately to the north of Fungler Hall along 22nd Street, N.W. To the north of the project site, within Square 56, is Madison Hall, an eight-story dormitory. To the west is Tompkins Hall, a four-story academic building, which fronts on 22nd Street and is the home of the School of Engineering and Applied Science. Immediately to the north of Tompkins Hall is a small University surface parking lot containing 22 parking spaces.

Square 56 is zoned R-5-D. The R-5-D District permits general residential uses of high density, including one-family dwellings, flats, and apartment buildings. Certain institutional uses, including colleges and universities, are also permitted in a R-5-D District with Zoning Commission approval. The R-5-D District permits development up to a maximum height of 90 feet, a maximum floor ratio (FAR) of 3.5, and a maximum lot occupancy of 75%.

The Land Use Map Element of the Comprehensive Plan designates the subject property and square for institutional use, which is defined as land and facilities used by hospitals, colleges, and universities.

The University indicated that the objective of the proposed project is to provide a new state-of-the-art facility for the School of Business and Public Management and to thereby improve the competitiveness of this school with similar programs throughout the country. The school is currently spread out over eight different locations on campus.

Fungler Hall is a 158,000 square foot high-rise classroom and office structure that consists of two levels of parking below grade, six stories of classroom/offices above grade and a one-story mechanical penthouse above the sixth floor. The addition will replace an existing surface parking lot, which is located adjacent to Fungler Hall on 22nd Street, N.W. The addition will provide 150,000 square feet of new space for a total new area of approximately 308,000 square feet. The addition will also consist of two levels of parking below grade, six stories of classrooms/offices above grade, and a one-story mechanical penthouse above the 6th floor. The third through sixth floors within the existing Fungler Hall structure will be renovated as part of the new construction for the new addition.

The University's architect, who was recognized as an expert witness by the Commission, testified that the architectural character of the new addition to Fungler Hall will exhibit a sympathetic relationship to the existing structure while also expressing a transparency and openness that is appropriate for a modern school of business. The new structure will be constructed primarily of precast concrete and glass panels with selective accents of natural stone.

The precast concrete will be formulated to closely resemble the natural limestone found in many of the surrounding structures. Large expanses of glass will be positioned at prominent locations to allow access to natural light and provide dramatic views to the exterior.

The University's architect further testified that the building is also compatible in scale and materials with other buildings on the campus and in the immediate vicinity.

Parking currently served by the existing surface parking lot will be provided in the new building on two underground levels that will connect with the existing Fungler Hall underground-parking garage. Access to the garage will be provided via a driveway located off of H Street. Existing access to the site from 22nd Street will be eliminated.

The total number of parking spaces in the proposed, enlarged Fungler Hall will result in a small decrease (-25) in parking spaces over the current condition primarily as a result of the elimination of valet parking in the existing garage. This decrease, however, will not affect the University's ability to continue to meet the overall mandatory minimum of 2,800 parking spaces campus-wide as set by the campus plan.

An existing loading area along H Street will remain as part of the new addition and will serve as a loading area for the facilities within the block. Additionally an existing 9-foot high loading space will be maintained within the existing Fungler parking garage. These loading facilities will be adequate to meet the service and loading requirements for the new combined facility consisting primarily of daily paper waste removal and occasional letter and small package deliveries.

The proposed project complies with the matter-of-right height, lot occupancy, and yard requirements. The proposed new addition will add approximately 150,000 square feet to the existing Fungler Hall. With the proposed new addition, Fungler Hall will have a total FAR of 3.32 or approximately 308,000 gross square feet. Under matter-of-right standards, a maximum 3.5 FAR is allowed on the site.

The new addition will match the existing structure's height of 90' above grade as measured at the center of the existing façade along 23rd Street. No additional height will be added to the existing structure.

The new building footprint will result in a lot occupancy of 47.8%, well below the 75% allowance. The rear yard setback complies with the 30' setback as measured from the center of 22nd Street.

The proposed project deviates from the matter-of-right standards for penthouse structures in two respects. First, the new addition will include an additional roof structure which will not be connected to the existing roof structures on Fungler Hall. As a result, the roof structures will not comply with the zoning requirement of only one roof structure per building. (§ 411.3) Further, the new roof structure will not comply with the 1:1 zoning set back requirement around the entire perimeter of the building rooftop. (§ 400.7) A set back of only 1:0.5 is provided above the area where the new addition joins the existing structure. Such deviations are permitted by special exception where impracticalities because of operating difficulties, size of building lot, or other

conditions relating to the building or surrounding area, would tend to make full compliance under unduly restrictive, prohibitively costly, or unreasonable. (§ 411.11)

With respect to the limitation on the number of penthouse structures, the new penthouse for the addition could be physically connected to the existing penthouse on Fonger Hall resulting in a single penthouse; however, it would be impractical and undesirable from an aesthetic standpoint to do so.

With respect to the setback requirements, the proposed penthouse deviates only at the point where it sets back from the connecting point between existing Fonger Hall and the addition on 22nd Street. The building design at this location to is set back from 22nd Street for aesthetic purposes.

A zoning certification from the Zoning Administrator confirming the project's conformance with all of the applicable zoning standards except the penthouse requirements were received into the record.

The recently-approved George Washington University Campus Plan designates the site for "academic/administrative" use, which is defined in the campus plan as "classrooms, laboratories, faculty offices, parking, administrative offices, auxiliary services and limited support functions." The proposed project is consistent with this designation. The proposed project site is also identified as a development site for additional academic/administration in the campus plan.

A total floor area ratio (FAR) of 3.5 is applied on an aggregate basis for university campus plans in an R-5-D zone district. With the proposed project's 3.32 FAR and taking into account a number of other pending projects, including new planned residential developments on Squares 43 and 57, the Elliott School project and a planned addition to the Academic Center, the overall aggregate FAR for the R-5-D zoned property of the University would be 2.97. This would be well below the permitted aggregate of 3.5 FAR.

Finally, upon completion of the proposed project, the total number of parking spaces on campus would remain within the minimum mandatory parking requirement of 2,800 spaces as currently required by the approved campus plan.

The University opined that the proposed development is "not likely to become objectionable to neighboring property because of noise, number of students, or other objectionable conditions" because the proposed addition will house and consolidate existing activities for the School of Business and Public Management which are currently spread over various locations on the campus. The proposed addition is not expected to increase noise, traffic, or number of students currently engaged in these activities.

By memorandum dated December 5, 2001, and by oral testimony at the December 13, 2001, public hearing, the D.C. Office of Planning concluded that the addition will be in harmony with the general purpose and intent of the Zoning Regulations and will not tend to adversely affect the use of neighboring properties. With respect the proposed deviations from the penthouse standards, the Office of Planning opined that the Applicant's proposal to provide a separate roof structure on the new addition is sensible and desirable and that the small section where the new

roof structure is not in conformity with the 1:1 setback is not a problem. The Office of Planning recommended that the Zoning Commission approve these variations and the project as proposed.

By resolutions dated November 13, 2001 and December 17, 2001, the Foggy Bottom and West End Advisory Neighborhood Commission (ANC-2A) stated that it does not oppose the construction of a proposed project subject to the University submitting its overall plan for student housing, as well as its academic facilities plans, as mandated by the approved Campus Plan.

FINDINGS OF FACT:

1. The Commission finds that the University has met the requisite burden of proof as set forth in §§ 210 and 3104.1 of the Zoning Regulations. The construction and use of the proposed addition for the School of Business and Public Management will not tend to adversely affect the use of neighboring properties nor become objectionable to neighboring properties because of noise, number of students or vehicular traffic. In so finding, the Commission credits the expert testimonies and record evidence of the University's architect, its traffic consultant, and the findings and recommendations of the D.C. Office of Planning.
2. The Commission agrees with the report of the University's expert traffic consultant that the proposed project is not likely to result in an increase in traffic and that that all intersections in the vicinity of the project site will operate at acceptable levels of service. The Commission finds further that there are a sufficient number of off-street parking spaces provided in the facility and on the campus as a whole to accommodate the development of the proposed addition. For these reasons, the Commission concludes that the approval of this application will not have an adverse effect on the use or enjoyment of neighboring property because of traffic.
3. The Commission finds that the proposed penthouse location and configuration is satisfactory and that the consolidation of the penthouse for the addition with the existing penthouse is impractical and undesirable.
4. The Commission makes the following findings with respect to the concerns submitted by ANC-2A:

The University must present its overall plan for housing full-time undergraduate students on campus. The Board of Zoning Adjustment first ordered the University to develop such a plan in its order dated March 29, 2001, approving the University's campus plan for years 2000 through 2010. On June 15, 2001, the enforcement of Condition 9 of this order was enjoined by the United States District Court. Also, the District of Columbia sought and obtained a remand of this order from the D.C. Court of Appeals. After hearings on remand, the BZA issued a proposed order on November 1, 2001, which became effective and final on December 11, 2001. In the interim, GWU has moved aggressively to create three development proposals that will increase the number of on-campus beds by 1,097, or 14%. Given the legal controversy surrounding this issue, the University's substantive steps to increase the number of on-campus beds

and the timing of the remand order, the Commission is satisfied that the University is taking reasonable steps to produce an overall housing plan in a timely manner.

5. The Board finds that the concerns submitted by other parties and persons appearing in opposition to the application are substantively similar to those submitted by ANC-2A and that the findings herein with respect to the ANC concerns adequately address the concerns submitted by those persons.
6. The Commission finds further that the University has submitted into the record a suitable statement discussing the status of the conditions imposed by the BZA in its order of March 29, 2001, and its remand order of December 11, 2001.

Conclusions of Law:

1. Based on the Findings of Fact and the evidence of record, the University is seeking a special exception under § 210 of the Zoning Regulations for further processing under an existing campus plan authorizing the construction an addition to Funger Hall for a new School of Business and Public Management on the campus of the University at 2201 G Street, N.W. The granting of this relief requires compliance with the provisions of §§ 210 and 3104.1 of the Zoning Regulations. The Commission concludes that the University has met its burden of proof.
2. The Commission further concludes that the proposed project is located so as not to become objectionable to neighboring property because of noise, traffic, number of students or other objectionable conditions. The Commission further concludes that the project will be in harmony with the general purpose and intent of the Zoning Regulations and maps and will not tend to adversely affect the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps.
3. The Commission concludes that it has accorded ANC-2A the “great weight” to which it is entitled. Accordingly, it is ordered that the application is **GRANTED** subject to the following conditions:
 - a. During the construction phase of the project, the University shall utilize off-campus parking facilities as set forth in the parking plan proposed by the University in its “Effects of Planned Construction on Campus Parking” submission, dated December 12, 2001.
 - b. The chiller, which was initially located outside of the penthouse enclosure, shall be relocated inside the enclosure and the emergency generator shall be relocated pursuant to the Applicant’s post-hearing submission. (Penthouse Floor Plan, A107, December 20, 2001)
 - c. If deemed desirable and approved by the D.C. Department of Public Works, the University shall install markings on the pavement and appropriate signage to indicate a mid-block crosswalk in front of the proposed addition on 22nd Street.

VOTE: **4-0-1** (Carol J. Mitten, James H. Hannaham, Anthony J. Hood, and Peter G. May to approve; John G. Parsons not present, not voting)

BY ORDER OF THE ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

Each concurring member has approved the issuance of this Summary Order.

ATTESTED BY: 
JERRILY R. KRESS, FAIA
Director

FINAL DATE OF ORDER: APR - 3 2002

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURES AND RENOVATIONS WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

THE APPLICANT SHALL COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, CODIFIED AS CHAPTER 25 IN TITLE 1 OF THE D.C. CODE. *SEE* D.C. CODE § 1-2531 (1999 Repl.). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THE HUMAN RIGHTS ACT. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

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ZONING COMMISSION ORDER NO. 06-38

Z.C. Case No. 06-38

**(Howard University – Approval to Amend Central Campus Plan and Special Exception
Application for Further Processing)**

January 18, 2007

Application No. 06-38 of President and Trustees of Howard University (the “Applicant”), pursuant to 11 DCMR § 3104.1 and in accordance with § 210 of the Zoning Regulations, request to amend the Campus Plan approved in 1998 to permit the construction of a residential facility for its students to be known as the Men’s Living and Learning Center (“LLC”). The Applicant simultaneously requests special exception approval for the further processing of the approved Campus Plan to permit the construction of the LLC, which would be located on the main campus between Crampton Auditorium, Childers Hall, and Greene Memorial Stadium. Finally, the Applicant seeks a special exception pursuant to § 411 to allow three (3) separate enclosures for its penthouse and mechanical equipment and for locating two (2) of the rooftop structures within the required setback from the exterior walls.

HEARING DATE: January 18, 2007

DECISION DATE: January 18, 2007 (Bench Decision)

SUMMARY ORDER

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Zoning Commission for the District of Columbia (“Commission”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, by mail to Advisory Neighborhood Commissions (“ANC”) 1B and 5C, and to owners of property within 200 feet of the site. The campus of Howard University is located within the jurisdiction of ANC 1B and 5C.

As directed by 11 DCMR § 3035.4, the Commission required the Applicant to satisfy the burden of proving the elements of § 210 of the Zoning Regulations, which are necessary to establish the case for a special exception for a college or university.

The design of the LLC does not make it feasible to locate the stair enclosure, elevator overrun, and cooling tower in one enclosure. In addition, the stair enclosure and elevator overrun will not be sufficiently set back from the roof edge. As a result, Howard seeks special exception relief pursuant to §§ 3104.1 and 411.11 from 11 DCMR §§ 400.7 and 411.3 to allow three (3) separate

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rooftop structures and to locate the stair enclosure and elevator overrun within the required setback from the exterior walls. The screen the Applicant is proposing around the perimeter of the roof will conceal the roof structures and eliminate any aesthetic detriment the roof structures may have without a setback.

As of the Applicant's 1998 Campus Plan, the overall floor area ratio ("FAR") for the campus is well within the permitted boundaries under the Zoning Regulations. Pursuant to paragraph 18 of BZA Order No. 16330, a maximum 2.75 FAR is permitted for development of the Applicant's entire campus. After the demolition of the Center for Hypertension, Center for Sickle Cell Disease, Bethune Hall, the Physical Education Annex, and the new construction of the Lois Stokes Medical Library, the existing density of the Howard Campus is 1.34 FAR. The construction of the LLC will add approximately 117,465 square feet to the campus development, increasing the density of the entire campus to 1.36 FAR, which remains well within the maximum density.

The D.C. Office of Planning, in a report dated January 12, 2007, which was submitted into the record, stated that the application is in conformance with the provisions of § 210 and recommended approval of the application as submitted. The District Department of Transportation, in a report dated January 8, 2007, stated that it had no objection to the proposal. ANC 1B submitted a letter in support of the application dated October 10, 2006. ANC 5C submitted a letter in support of the application dated November 29, 2006. Additional letters of support were submitted into the record, including one from Bloomingdale Civic Association, Inc., dated October 16, 2006, and another from the Pleasant Plains Civic Association dated October 5, 2006.

Based upon the record before the Commission, the Commission concludes that the Applicant has met the burden of proof pursuant to 11 DCMR §§ 210 and 411.11 and that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Commission further concludes that granting the requested relief will not tend to adversely affect the use of neighboring property in accordance with the Zoning Regulations and Map. The Commission notes and gives great weight to the recommendation of the Office of Planning that the application satisfies the requirements of § 210. The Commission notes, and gives great weight to, the recommendation of ANCs 1B and 5C to support the University's efforts to locate residential facilities for its students on campus.

It is, therefore, **ORDERED** that the further processing application be **GRANTED**. It is further **ORDERED** that the amendment to the 1998 Campus Plan be **GRANTED** subject to the conditions previously delineated in BZA Order No. 16330.

Pursuant to 11 DCMR § 3100.5, the Commission has determined to waive the requirement of 11 DCMR § 3125.3 that findings of fact and conclusions of law accompany the order of the Commission. The waiver will not prejudice the rights of any party and is appropriate in this case.

VOTE: 4-0-1 (Anthony J. Hood , John G. Parsons, Carol J. Mitten, and Michael Turnbull to approve; Gregory N. Jeffries, having not participated, not voting).

BY ORDER OF THE D.C. ZONING COMMISSION
Each concurring member approved the issuance of this Order.

ATTESTED BY:


JERRILY R. KRESS, FAIA
DIRECTOR, OFFICE OF ZONING

FINAL DATE OF ORDER: JAN 31 2007

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE COMMISSION ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED.

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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



Z.C. CASE NO.: 06-38

FEB - 1 2007

As Secretary to the Commission, I hereby certify that on _____ copies of this Z.C. Order No. 06-38 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

- | | |
|---|---|
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(Alan Bergstein) |

ATTESTED BY:


Sharon S. Schellin

Secretary to the Zoning Commission
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**GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission**



**ZONING COMMISSION ORDER NO. 06-39
Z.C. Case No. 06-39
(Catholic University of America – Construction of New Residence Hall and
Amendment to an Approved Campus Plan)
January 22, 2007**

Application No. 06-39 of the President and Trustees of The Catholic University of America (the "Applicant"), pursuant to 11 DCMR § 3104 and in accordance with § 210 for special exception approval of an application for further processing of an approved Campus Plan to permit the construction of a new residence hall, relief from the rooftop structure requirements, and to extend the use of temporary housing units on the University's Main Campus through 2012. The Applicant also amended the approved Campus Plan to provide for the location of the proposed residential use.

HEARING DATE: January 22, 2007

DECISION DATE: January 22, 2007 (Bench Decision)

SUMMARY ORDER

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Zoning Commission ("Commission") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, by mail to Advisory Neighborhood Commissions ("ANC") 5A and 5C, and to owners of property within 200 feet of the site. The campus of Catholic University is located within the jurisdiction of ANC 5A and 5C.

As directed by 11 DCMR § 3035.4, the Commission required the Applicant to satisfy the burden of proving the elements of § 210 of the Zoning Regulations, which are necessary to establish the case for a special exception for a college or university.

The D.C. Office of Planning, in a report dated January 10, 2007, which was submitted into the record, concluded that the application is in conformance with the provisions of § 210 and recommended approval of the application as submitted. The District Department of Transportation, in a report dated January 12, 2007, stated that it had no objection to the proposal. ANC 5A submitted a resolution in support of the application dated November 29, 2006. ANC 5C submitted a resolution in support of the application

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dated December 29, 2006. Additional letters of support were submitted into the record, including one from Capuchin College dated November 26, 2006, and another from the Washington Retreat House dated November 9, 2006.

Based upon the record before it, the Commission concludes that the Applicant has met the burden of proof pursuant to 11 DCMR § 210 and that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Commission further concludes that granting the requested relief will not tend to adversely affect the use of neighboring property in accordance with the Zoning Regulations and Map. The Commission notes, and gives great weight to, the recommendation of the Office of Planning that the application satisfies the requirements of § 210. The Commission notes, and gives great weight to, the recommendation of ANCs 5A and 5C to support the University's efforts to locate residential facilities for its students on campus.

It is, therefore, **ORDERED** that the further processing application and amendment to the 2002 Campus Plan be **GRANTED** subject to the following conditions:

1. The conditions of Z.C. Case No. 02-20, the approval of the 2002 Campus Plan, remain in force, as amended and supplemented by the conditions of Z.C. Case No. 04-25.
2. Condition number 5 of Z.C. Case No. 04-25 shall be amended to permit the use of the temporary housing units through the year 2012.

Pursuant to 11 DCMR § 3100.5, the Commission has determined to waive the requirement of 11 DCMR § 3125.3 that findings of fact and conclusions of law accompany the order of the Commission. The waiver will not prejudice the rights of any party and is appropriate in this case.

VOTE: 5-0-0 (Carol J. Mitten, Michael Turnbull, Anthony J. Hood, John G. Parsons, and Gregory N. Jeffries to approve).

BY ORDER OF THE D.C. ZONING COMMISSION
Each concurring member approved the issuance of this Order.

ATTESTED BY:


JERRILY R. KRESS, FAIA
DIRECTOR, OFFICE OF ZONING

FINAL DATE OF ORDER: JAN 31 2007

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE COMMISSION ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED.

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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



Z.C. CASE NO.: 06-39

As Secretary to the Commission, I hereby certify that on FEB - 1 2007 copies of this Z.C. Order No. 06-39 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

- | | |
|---|---|
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ATTESTED BY:

Sharon S. Schellin
Secretary to the Zoning Commission
Office of Zoning