

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 11-02C
Z.C. Case No. 11-02C
University of the District of Columbia
(Modification of Consequence—Campus Plan)
October 22, 2018

Pursuant to notice, public meetings of the Zoning Commission for the District of Columbia (“Commission”) were held on October 22 and November 19, 2018. At the October 22 meeting the Commission approved the application (“Application”) of the University of the District of Columbia (“University”) for a modification of consequence to Zoning Commission Order No. 11-02/11-02A which approved the University’s UDC Van Ness Campus Plan 2011—2020. The Commission considered the Application pursuant to Subtitle Z, Section 703 of the District of Columbia Zoning Regulations which are codified in Title 11 of the District of Columbia Municipal Regulations (“DCMR” or the “Zoning Regulations”).

FINDINGS OF FACT

1. On June 14, 2018, the University filed an application with the Commission seeking an amendment to two conditions in Z.C. Order No. 11-02/11-02A (the “Order”). The Order approved the UDC Van Ness Campus Plan for the period from 2011 - 2020 as well as further processing to allow construction and use of a New Student Center subject to twenty-eight (28) conditions. The Application stated that the two conditions (“Conditions”) have proved legally and/or practically infeasible to implement and require modification in order for the University to remain in good standing from a zoning standpoint. The Conditions at issue include Condition No. 8 and Condition No. 15a of the Order.

2. As set forth in the Order, Condition No. 8 provides:

“All students at the Van Ness Campus, whether living on campus, off campus in housing leased directly by the University, or off campus in privately owned or leased property, shall be required to comply with the University Code of Conduct. Within three months of approval of the campus plan, the University shall evaluate and collect input from the Task Force on revisions to the Code of Conduct that will address the impacts of students living on or near campus.”

The University indicated that, as a public institution, it is limited in its ability to regulate the actions of its students off-campus. As a result, the Application requested a modification to Condition 8 for the purpose of ensuring that its Code of Conduct only

addresses off campus conduct that has a direct detrimental impact on the University's educational functions. The University indicated that it will seek input from the Task Force for a revised Code of Conduct on or before December 31, 2018.

3. As set forth in the Order, Condition 15a provides:

The University shall require all students, faculty and staff to park in University or other commercial parking facilities on or near the Van Ness Campus:

- a. The University shall prohibit, to the extent permitted by law, students from parking on the residential streets adjacent to and surrounding the Van Ness campus. To accomplish these purposes, the University shall employ a system of administrative actions, penalties, and fines for violations of this policy;

With respect to Condition 15a, the University expressed a concern about its the University's legal authority to prohibit members of the public or University students from parking on District streets.

4. On July 19, 2018, the University submitted a letter to the Zoning Commission (Ex. 6A) requesting a postponement of the Zoning Commission's consideration of the Application to permit additional time to work with the community.
5. The Commission received letter dated September 17, 2018 in support of the Application from Advisory Neighborhood Commission ("ANC") 3F (Ex. 7A) which is automatically a party to the Application. The ANC indicated that the University had met with the ANC and agreed to amend its Application to address ANC concerns.
6. By letter dated September 18, 2018, the University amended the Application requesting Zoning Commission approval of the following amended conditions which had been reviewed and approved by ANC 3F:

New Condition No. 8:

"All students at the Van Ness Campus, whether living on campus, off campus in housing leased directly by the University, or off campus in privately owned or leased property, shall be required to comply with the University Code of Conduct. On or before December 31, 2018, the University shall evaluate and collect input from the Task Force on revisions to the Code of Conduct that will address the impacts of students living on or near campus."

New Condition No. 15a:

The University shall encourage all students, faculty and staff to park in University or other commercial parking facilities on or near the Van Ness Campus.

- a. The University shall strongly discourage to the extent permitted by law, students from parking on the residential streets adjacent to and surrounding the Van Ness

campus. To accomplish these purposes, the University shall employ a system of monitoring and notices.

7. In satisfaction of Subtitle Z Section 703.13, the Applicant provided a Certificate of Service which indicated that ANC 3F, the Van Ness Residents Association and the Van Ness South Tenant's Association, who are automatic parties to the case by virtue of their party status in Z.C. Case No. 11-02/11-02A.
8. At its public meeting on October 22, 2018, the Commission determined that this application was properly a modification of consequence within the meaning of 11-Z DCMR § 703.4, and that no public hearing was necessary pursuant to 11-Z DCMR § 703.1. The Commission scheduled the matter for decision on November 19, 2018 to allow the parties the opportunity to comment on the modification request.
9. The Commission received letter dated September 17, 2018 in support of the Application from Advisory Neighborhood Commission ("ANC") 3F (Ex. 7A). The ANC indicated that the University had met with the ANC and agreed to amend its Application to address ANC concerns.
10. At its public meeting on October 22, 2018, the Commission determined that this application was properly a modification of consequence within the meaning of 11-Z DCMR § 703.4, and that no public hearing was necessary pursuant to 11-Z DCMR § 703.1. The Commission scheduled the matter for decision on November 19, 2018 to allow the parties the opportunity to comment on the modification request.
11. By report dated October 12, 2018, the Office of Planning ("OP") recommended approval of the Application. (Ex. 8).

CONCLUSIONS OF LAW

1. Pursuant to 11-Z DCMR § 703.1, the Commission, in the interest of efficiency, is authorized to make "modifications of consequence" to final orders and plans without a public hearing. A modification of consequence means "a modification to a contested case order or the approved plans that is neither a minor modification nor a modification of significance." (11-Z DCMR § 703.3.) Examples of modifications of consequence "include, but are not limited to, a proposed change to a condition in the final order, a change in position on an issue discussed by the Commission that affected its decision, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Commission." (11-Z DCMR § 703.4.)
2. The Commission concludes that the modification requested and as described in the above Findings of Fact, is a modification of consequence and therefore can be granted without a public hearing.
3. The Commission is required under §3 of the Comprehensive Advisory Neighborhood Commissions Reform Amendment Act of 2000, effective June 27, 2000 (D.C. Law 13-135; D.C. Official Code §1-309.10(d)) to give great weight to the issues and

conditions expressed in the written report of an affected ANC. In this case, ANC 3F voted to support the Application and recommended that the Commission approve the application. (Ex. 7A). The Commission has given ANC 3F recommendation great weight in approving the Application.

4. The Commission is required under §5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code §6-623.04) to give great weight to OP recommendations. For the reasons stated above, the Commission concurs with OP's recommendation for approval and has given the OP recommendation the great weight it is entitled.
5. The Application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of a modification of consequence to Order No. 11-02/11-02A as follows:

The conditions in Z.C. Order No. 11-02/11-02A remain unchanged except the following conditions replace Condition No. 8 and No. 15a of Z.C. Order No. 11-02/11-02A respectively:

Condition No. 8:

All students at the Van Ness Campus, whether living on campus, off campus in housing leased directly by the University, or off campus in privately owned or leased property, shall be required to comply with the University Code of Conduct. On or before December 31, 2018, the University shall evaluate and collect input from the Task Force on revisions to the Code of Conduct that will address the impacts of students living on or near campus.

Condition No. 15a:

The University shall encourage all students, faculty and staff to park in University or other commercial parking facilities on or near the Van Ness Campus.

The University shall strongly discourage to the extent permitted by law, students from parking on the residential streets adjacent to and surrounding the Van Ness campus. To accomplish these purposes, the University shall employ a system of monitoring and notices.

On November 19, 2018, upon the motion of Chairman Hood, as seconded by Commissioner Turnbull, the Zoning Commission took FINAL ACTION to APPROVE the application at its public meeting by a vote of 5-0-0 (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the D.C. Register; that is, on December 21, 2018.

**VOTE: 5-0-0 (Anthony J. Hood, Robert E. Miller, Richard Shapiro,
Michael G. Turnbull, and Peter G. May to approve).**

BY ORDER OF THE D.C. ZONING COMMISSION

A majority of Commission members approved issuance of this Order.

ATTESTED BY: _____

SARA A. BARDIN
DIRECTOR, OFFICE OF ZONING

FINAL DATE OF ORDER: _____, 2019