

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Zoning Commission**



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 20-08C**  
**Z.C. Case No. 20-08C**  
**Howard University**  
**(Modification of Consequence- Howard University Central Campus**  
**Master Plan)**  
**September 26, 2024**

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (“Commission”) was held on September 26, 2024. At that meeting, the Commission approved the application (“Application”) of Howard University (“Applicant”), for a modification without hearing<sup>1</sup> to Z.C. Order No. 20-08, Howard University’s Campus Plan, to include 2711 Georgia Avenue, N.W. (Square 3058, Lot 53) ( the “Property”) within the boundaries of the Campus Plan. The Commission considered the Application pursuant to Subtitle Z § 703 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“Zoning Regulations”).

**MEETING DATE:** September 26, 2024  
**DECISION DATE:** September 26, 2024

**Parties and Notice**

1. Advisory Neighborhood Commission (“ANC”) 1E, in which the Property is located, is the “affected ANC” and automatically party to the Application.
2. On January 26, 2024, the Applicant served the Application on ANC 1E and ANC 1B, which was a party to the original Campus Plan case as well as the Office of Planning (“OP”) and District Department of Transportation (“DDOT”), as attested by the Certificate of Service submitted with the Application. (Exhibit [“Ex.”] 2 at 6.)

**FINDINGS OF FACT**

3. On July 1, 2024, the Applicant filed an Application with the Commission seeking a modification to Z.C. Order No. 20-08 (the “Order”) which approved Howard University’s Central Campus Plan. (Exhibit [“Ex.”] 1, 2.)
4. The Application requested that the Order indicate that the Property is to be included within the boundaries of the Campus Plan baes on the following:

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<sup>1</sup> The Application was filed as a “Modification of Consequence.” Pursuant to Z.C. Order No. 22-25, which became effective on August 2, 2024 during the pendency of the Application, the modification of consequence was renamed the “Modification without Hearing” process and certain citations were updated consistent with this change. All references in this Order are to the regulations in effect on September 26, 2024, the date of the Commission’s decision on the Application.

- (a) The Property is located contiguous with the current Campus Plan boundaries and had previously been located within the boundaries (Finding of Fact 2) (Ex. 2);
  - (b) The Property was previously extracted from the campus pursuant to Z.C. Orders 11-15F and 11-15H to make it available for private development. (Finding of Fact 2) (Ex. 2).
  - (c) The Property was subsequently developed with a mixed-use office and residential project (the “Project”). (Ex. 2.)
  - (d) Increasing needs for graduate student housing has led the University to master lease the Project’s residential units. The master lease is for a 5-year period with an option for another 5 years. During this period, the Project’s residential component will be exclusively for the University’s students and other members of the University community. (Ex. 2.)
  - (e) Subtitle C, Section 1001.6 provides an exemption from IZ for “housing developed by or on behalf of a local college or university exclusively for its students, faculty, or staff.” (Ex. 2.)
  - (f) The change in use to student housing has raised issues about the applicability of Inclusionary Zoning to the Project. The Project was designed and permitted prior to the decision to operate as student housing, so it was subject to the IZ set aside requirements and eligible for the IZ bonus density. As a result, the Project was constructed with 12 IZ units and utilized approximately 0.35 FAR (10,164 SF) of bonus density. (Ex. 2.)
  - (g) The University affirmed that the Project was recently completed and none of the IZ units had been occupied. (Ex. 6.)
5. This application would undo that extraction in order to allow the density of the residentially-zoned portion of the Property to be aggregated with other residentially-zoned portions of the Campus. (Ex. 2.)

## **RESPONSES TO THE APPLICATION**

### **OP Report**

6. On July 15, 2024, OP submitted a report stating that OP did not object to the Application being considered as a Modification of Consequence under Subtitle Z § 703 and recommending approval of the Application stating that the modification would bring the property under the requirements of the campus plan and would not be inconsistent with the Comprehensive Plan. OP recommended including the following requirement proffered by the University as a condition of approval of the Application:

In the event of a change in use of all or a portion of the residential portion of the Project from a residence hall to another multifamily residential use that would be subject to the Inclusionary Zoning requirements of Subtitle C, Chapter 10, the provisions of that chapter shall apply to such use. (Ex. 5.)

## **CONCLUSIONS OF LAW**

1. Subtitle Z § 703.1 authorizes the Commission, in the interest of efficiency, to make modifications to final orders and plans without a public hearing.
2. Subtitle Z § 703.6 defines a Modification without Hearing as “a modification in which impact may be understood without witness testimony.” Under Subtitle Z § 703.6, examples of a Modification without Hearing include “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.”
3. The Commission concludes that the Application qualifies as a Modification without Hearing within the meaning of Subtitle Z § 703.6, as the modification seeks a minor change to Howard Universities Campus Plan boundaries to incorporate property that had previously been included within the boundaries of the Campus Plan, and therefore the modification can be granted without a public hearing pursuant to Subtitle Z §§ 703.1 and 703.6.
4. The Commission concludes that the Applicant satisfied the requirement of Subtitle Z § 703.10 to serve the Application on all parties to the original proceeding, in this case ANC 1B. In addition, the Applicant served the Application on ANC 1E, which is the current ANC for the property that is the subject of the Application.
5. The Commission concludes that the requirement of former Subtitle Z §703.17(c)(2) to establish a timeframe for responses by all parties, which was in effect at the time of initial “scheduling” consideration, was met by the Commission at its July 25, 2024 public meeting. The Commission further concludes that its decision vote on September 26, 2024 exceeded the timeframe in current Subtitle Z § 703.12 for parties to file a response to the Application, which was filed on July 1, 2024.
6. The Commission finds that the Application is consistent with the ZC No. 20-08 because the requested modification is a minor change to the University’s campus plan boundaries that will not result in any change in use or require additional zoning relief.
7. The Commission concurred with OP’s recommendation to approve the Application as a Modification of Consequence. The Commission is required to give “great weight” to the recommendations of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990. (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.)) and Subtitle Z § 405.8 (Metropole Condo. Ass’n v. District of Columbia Bd. of Zoning Adjustment, 141 A.3d 1079, 1087 (D.C. 2016).) 12. The Commission found OP’s recommendations to approve the Application persuasive and concurred in that judgment.
8. The Commission must give “great weight” to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.))

and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment, 141 A.3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase "issues and concerns" to "encompass only legally relevant issues and concerns." (Wheeler v. District of Columbia Bd. of Zoning Adjustment, 395 A.2d 85, 91 n.10 (D.C. 1978) (citation omitted). Neither of the affected ANCs, ANC 1B and 1E, submitted a written response to the Application; therefore, the Commission has nothing to which it can give "great weight."

At its July 25, 2024 public meeting, the Commission concluded that the modification requested in the Application do not change the material facts upon which the Commission based its original approval of Z.C. Order No. 20-08. Accordingly, the Commission concluded that the Application falls within the scope of a modification that may be approved without a public hearing pursuant to Subtitle Z § 703.

### **DECISION**

In consideration of the above 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 Z.C. Order No. 20-08, which shall be modified by adding a new Condition as follows:

2711 Georgia Avenue, N.W. (Square 3058, Lot 53) is included within the Campus Plan boundaries. In the event of a change in use of all or a portion of the residential portion of the Project from a residence hall to another multifamily residential use that would be subject to the Inclusionary Zoning requirements of Subtitle C, Chapter 10, the provisions of that chapter shall apply.

All other conditions contained in Z.C. Order 20-08 remain in effect.

VOTE (September 26, 2024): 4-0-1(Anthony J. Hood, Tammy Stidham, Joseph S. Imamura and Robert E. Miller to approve; 3rd Mayoral Appointee seat vacant.)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 20-08C shall become final and effective upon publication in the District of Columbia Register; that is, on \_\_\_\_\_.



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

**SARA A. BARDIN**  
**DIRECTOR**  
**OFFICE OF ZONING**