

GOVERNMENT OF THE DISTRICT OF COLUMBIA



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 20-08A

Z.C. Case No. 20-08A

Howard University

(Interim University Use at 300 Bryant Street, N.W.)

December 16, 2021

Pursuant to notice, at its December 16, 2021 public meeting, the Zoning Commission for the District of Columbia (the “Commission”) deliberated upon the application (the “Application”) of Howard University (the “Applicant” or “University” or “Howard” or “HU”) for relief under the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, Zoning Regulations of 2016, to which all subsequent citations refer unless otherwise specified), for a special exception for interim university use, pursuant to Subtitle X, §§ 101.1, 101.2, 101.10 and 901.2, of 300 Bryant Street, N.W. (also known as 355 W Street, N.W.) (Square 3069, Lots 67 and 856).

The Commission reviewed the Application pursuant to the Commission’s Rules of Practice and Procedures, which are codified in Subtitle Z. For the reasons stated below, the Commission **APPROVES** the Application.

**** SUMMARY ORDER ****

PARTIES

1. The following were automatically parties in this proceeding pursuant to Subtitle Z § 403.5:
 - The Applicant; and
 - Advisory Neighborhood Commission (“ANC”) 1B, in which the Property is located, and so is an “affected” ANC pursuant to Subtitle Z § 101.8.
2. The Applicant served the Application on ANC 1B and the Office of Planning (“OP”) on September 28, 2021. (Exhibit [“Ex.”] 3.)

NOTICE

3. On October 15, 2021, the Office of Zoning (“OZ”) sent notice of the December 6, 2021, public hearing to: (Ex. 5, 6.)
 - Applicant;
 - ANC 1B;
 - ANC 1B11 Commissioner, whose district includes the Property;
 - Office of ANCs;

- OP;
 - District Department of Transportation (“DDOT”);
 - Department of Energy and the Environment (“DOEE”);
 - District Department of Consumer and Regulatory Affairs (“DCRA”);
 - Office of Zoning Legal Division (“OZLD”);
 - Ward 1 Councilmember, whose ward include the Property;
 - Chair and At-Large members of the Council of the District of Columbia; and
 - Owners of property within 200 feet of the Property.
4. OZ published notice of the December 6, 2021, public hearing, in the October 22, 2021 *D.C. Register* (68 DCR 011068). (Ex. 4-6.)

THE APPLICATION

5. The application was filed pursuant to Subtitle Z § 302 and requested a special exception pursuant to Subtitle X §§ 101.1 and 901.2 to permit interim university use of 300 Bryant Street, N.W., as allowed by Subtitle X § 101.10. (Ex. 1-3D.) 300 Bryant Street, N.W. is developed with a three-story building which formerly housed a DC public school, Washington Metropolitan High School, which closed at the end of the 2019-2020 school year. The school building is vacant, and the University proposes to use the building on an interim basis for classrooms and associated administrative space. The University has an immediate need to move academic programs, including the Cathy Hughes School of Communications, out of their current location in the C.B. Powell Building at 525 Bryant Street, N.W. to facilitate construction of the new Howard University Hospital. The school building would accommodate University students, faculty, and staff with no external changes or additions. No additional staff, students or additional programming is anticipated. Because the interim location is in such close proximity to the campus (within one block), it is anticipated that there would be no change in commuting, transportation, or parking patterns or arrangements. (Ex. 3.)

OP

6. OP submitted a report dated November 24, 2021 (the “OP Report”), and testified in support of the Application at the public hearing. OP’s Report recommended approval of the Application subject to the condition that the interim use be limited to a of period four-years after the granting of the Certificate of Occupancy¹, to which the University agreed at the public hearing. (Ex. 9.)
7. OP’s Report notes that the proposed educational use at 300 Bryant Street, N.W. would accommodate the students, faculty, and staff with no external changes or additions and would activate a vacant building with a similar use to the former educational use. OP states that because the interim location is in such close proximity to the campus, there is no anticipated change in commuting, transportation, or parking patterns; therefore, the use would not generate any excessive noise or traffic to negatively impact the residential uses to the south or the neighborhood in general.

¹ The University is currently occupying the school building based on a temporary Certificate of Occupancy. (Ex. 9, p. 1.)

DDOT

8. DDOT did not submit a report and did not testify at the public hearing.

ANC 1B

9. ANC 1B submitted a written report stating that at its regularly scheduled, duly noticed meeting on December 2, 2021, with a quorum of commissioners present, ANC 1B voted 8-0-0 in support of the Application and cited no issues and concerns. (Ex. 12, 12A.)

Other Support

10. LeDroit Park Civic Association and Pleasant Plains Civic Association submitted letters of support endorsing the University's plans to upgrade and make use of the Washington Metropolitan High School building on a temporary basis of approximately five years. (Ex. 10, 11.)

CONCLUSIONS OF LAW

AUTHORITY

1. The Commission is authorized under the Zoning Act, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2018 Repl.)) to permit interim university use of land not included in the campus plan consistent with the requirements set forth in Subtitle X §§ 101 and 901 and Subtitle Z § 302.
2. Pursuant to Subtitle X § 101.14, approval of a campus plan shall be based on the determination by the that the application will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, and will not tend to affect adversely the use of neighboring property, in accordance with the Zoning Regulations and Zoning Maps, subject to the special conditions specified in this section. Accordingly, the Commission required the Applicant to satisfy the burden of proving that the Application satisfied the general special exception standard of Subtitle X § 901.2 and the specific conditions of Subtitle X §§ 101.2 and 101.10 pertaining to the establishment of university uses, and the interim use requested.
3. Based upon the record before the Commission, the Commission concludes that the Applicant hasmet the burden of proof pursuant to Subtitle X §§ 101.2, 101.10, and 901.2, and that the requested interim university use can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map. The Commission further concludes that granting the requested relief will not tend to adversely affect the use of neighboring property and that the interim use shall be located such that it is not likely to become objectionable to neighboring property because of noise, traffic, parking, number of students, or other objectionable conditions.
4. Since no persons appeared in opposition to the Application and ANC 1B was the only party and it supported the Application, a decision by the Commission to grant this Application would not be adverse to any party. Therefore, pursuant to Subtitle Z § 604.7, the Commission authorized a summary order in this case and determined it may waive the

requirement that findings of fact and conclusions of law accompany the Order because such waiver will not prejudice the rights of any party.

“GREAT WEIGHT” TO THE RECOMMENDATIONS OF OP

5. The Commission must give “great weight” to the recommendations of OP pursuant to § 13(d) 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 (2001)) and Subtitle Z § 405.8. (*Metropole Condo Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)
6. The Commission finds OP’s Report persuasive and its recommendation that the Commission approve the Application with the condition that the interim use be limited to a four-year period and therefore concurs in that judgment.

“GREAT WEIGHT” TO THE WRITTEN REPORT OF THE ANC

7. The Commission must give “great weight” to the issues and concerns raised in written report of the affected ANC that was approved by the full ANC at a properly noticed meeting that was open to the public 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.); see 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 Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted).)
8. The Commission concurs with the ANC Report’s recommendation of approval. As noted, the ANC’s Report cited no issues and concerns.


DECISION

In consideration of the case record, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application’s request for a special exception for interim university use, pursuant to Subtitle X, §§ 101.1, 101.2, 101.10 and 901.2, of 300 Bryant Street, N.W. (also known as 355 W Street, N.W.) (Square 3069, Lots 67 and 856) for a period of four-years after the granting of the Certificate of Occupancy.


VOTE (December 16, 2021): 5-0-0

(Robert E. Miller, Joseph S. Imamura, Anthony J. Hood, Peter G. May, and Peter A. Shapiro to **APPROVE**).

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 20-08A shall become final and effective upon publication in the *DC Register*; that is, on April 29, 2022.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.