

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Zoning Commission



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 80-07E**

**Z.C. Case No. 80-07E**

**Georgetown University**

**(Modification of Consequence for a Planned Unit Development**

**@ Square 563, Lot 16 [111 Massachusetts Avenue, N.W.]**

**November 30, 2023**

Pursuant to notice, at its November 30, 2023 public meeting, the Zoning Commission for the District of Columbia (“Commission”) considered the application (“Application”) of Georgetown University (“Applicant” or “University”) for a Modification of Consequence to the design of the approved Planned Unit Development (“PUD”) for Lot 16 in Square 563, with a street address of 111 Massachusetts Avenue, N.W. (“Property”). The Commission reviewed the Application pursuant to the Commission’s Rules of Practice and Procedures, which are codified in Subtitle Z of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

**FINDINGS OF FACT**

**PRIOR APPROVALS**

1. Pursuant to Z.C Order No. 324, the Commission approved a PUD to construct a mixed-use building containing office, residential, and/or retail uses at the Property (“Building”). At the time of approval of the PUD, the Property was located in the C-3-C zone.
2. Pursuant to Z.C. Order No. 80-07A, the Commission approved a three-story expansion and reskinning of the Building as well as a related Zoning Map Amendment from the C-3-C zone to the C-4 zone ("Proposed Expansion").
3. Pursuant to Z.C. Order No. 80-07B, the Commission approved a modification of consequence to the Proposed Expansion.
4. Pursuant to Z.C. Order No. 80-07C, the Commission approved a two-year time extension for the filing of a building permit to vest the Proposed Expansion.
5. Pursuant to Z.C. Order No. 80-07A(1), an administrative COVID-19 One-Year Time Extension was granted, pursuant to Subtitle Z § 705.9, which extended the Applicant’s time to commence construction on the Proposed Expansion from May 12, 2022 to May 12, 2023.

6. Pursuant to Z.C. Order No. 08-06A, the Property's underlying C-3-C zone was redesignated as the D-4 zone.
7. Pursuant to Z.C. Order No. 80-07D, the Commission approved the addition of university use as a permitted use of the PUD.
8. As explained by the University in its Application, construction of the Proposed Expansion was not pursued. (Ex. 3, p. 2n1.) Accordingly, pursuant to Subtitle Z § 702.6, both Z.C. Order No. 80-07A and 80-07B have expired, and the Property remains subject to Z.C. Order No. 324 as modified by Z.C. Order No. 80-07D.

#### **PARTIES AND NOTICE**

9. The following were automatically parties to this proceeding pursuant to Subtitle Z § 403.5:
  - The University; and
  - Advisory Neighborhood Commission (“ANC”) 6E.
10. The University served the Application on October 2, 2023, on ANC 6E as well as the D.C. Office of Planning (“OP”) and District Department of Transportation (“DDOT”) as attested by the Certificate of Service submitted with the Application. (Exhibit [“Ex.”] 3.)
11. Advisory Neighborhood Commissions (“ANC”) 6C was a party to Z.C. Order No. 80-07D but is now no longer an affected ANC pursuant to Subtitle Z, Section 101.8 due to redistricting that took place effective January 1, 2023. The University requested a waiver from service requirements pursuant to Subtitle Z § 101.9, arguing that ANC 6C had shifted 2-3 blocks east of the site and so there was good cause to no longer serve ANC 6C, particularly as pending language in Z.C. Case No. 22-25 would remove the requirement to serve an ANC that is no longer an “affected ANC.” After the Commission denied the waiver at its October 26, 2023 public meeting, the University served a copy of the Application on ANC 6C, as stated in the University’s letter dated October 30, 2023. (Ex. 8.)

#### **THE APPLICATION**

12. On October 2, 2023, the University filed the Application requesting a Modification of Consequence to modify the design of the PUD in order to facilitate a full-scale renovation of the existing building (“Project”). The University explained that the PUD would remain within the 6.5 FAR maximum for nonresidential use in the D-4 Zone but the renovations would trigger Green Area Ratio (“GAR”) and achieve a minimum GAR of 0.2. The University also explained that the Project would incorporate short-term and long-term bicycle parking in compliance with the Regulations, reduce the amount of vehicular parking, and reconfigure the loading dock to comply with the Regulations. (Ex. 3.)
13. Plans submitted with the Application showed alterations to the ground level of the PUD that pulled the streetwall out to the property line to enable new building entrances and improved retail space, new windows, an updated roof plan that would include green roof,

and a proposed site plan that included conceptual drawings for improvements to the public realm surrounding the Property. (Ex. 3; 3E1-3E2.)

14. The University requested design flexibility be incorporated as a part of the approval, as such flexibility is common for contemporary Commission approvals. (Ex. 3F.)
15. On October 15, 2023, the University submitted an updated site plan reflecting revisions made in response to feedback from OP and DDOT and a Loading Management Plan requested by DDOT to mitigate the impact of continued “back-in” loading maneuvers. (Ex. 5; 5A; 5B.)

#### **RESPONSES TO THE APPLICATION**

16. OP submitted a report October 16, 2023 (“OP Report”) recommending approval of the Application. (Ex. 6.) OP concluded that the Application could appropriately be considered as a modification of consequence because the requested changes were modest and would improve the relationship of the building to the surrounding streetscape. OP averred that the modifications would not render the PUD less consistent with the Comprehensive Plan but rather would further policies related to land use and transportation. OP also stated that the modifications would improve the building character and would be consistent with the Commission’s approval of university use in Z.C. Case No. 80-07D. OP did not object to the design flexibility and noted it was substantively consistent with pending flexibility language in Z.C. Case No. 22-25.
17. By report dated October 17, 2023, and pursuant to vote taken at a regularly-scheduled and duly-noted public meeting, with a quorum present, ANC 6E supported the proposed Application. (Ex. 7.)
18. By letter dated October 30, 2023, the University submitted email correspondence from the chair of ANC 6C stating that ANC 6C would not be taking up the Application because the Property was now well outside the ANC’s new boundaries. (Ex. 8A.)

#### **CONCLUSIONS OF LAW**

1. Subtitle Z § 703.1 authorizes the Commission, in the interest of efficiency, to make Modifications of Consequence to final orders and plans without a public hearing.
2. Subtitle Z § 703.3 defines a Modification of Consequence as “a modification to a contested case order or the approved plans that is neither a minor modification nor a modification of significance.”
3. Subtitle Z § 703.4 includes “a redesign or relocation of architectural elements and open spaces from the final design approved by the Commission” as an example of a Modification of Consequence.

4. The Commission concludes that the University satisfied the requirement of Subtitle Z § 703.13 to serve the Application on all parties to the original proceeding, in this case ANC 6E and ANC 6C.
5. The Commission concludes that the Application qualifies as a Modification of Consequence within the meaning of Subtitle Z §§ 703.3 and 703.4, as a request to modify the approved plans and therefore the modification can be granted without a public hearing pursuant to Subtitle Z § 703.1.
6. The Commission finds that the Application is consistent with the PUD as previously approved by Z.C. Order No. 324 and Z.C. Order No. 80-07D because the modifications will facilitate the adaptive reuse of the office building for university use and will further goals to activate the surrounding neighborhood.

#### **“GREAT WEIGHT” TO THE RECOMMENDATIONS OF OP**

7. The Commission is required to give “great weight” to the recommendation 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. D.C. Bd. of Zoning Adjustment, 141 A.3d 1079, 1087 (D.C. 2016.).)
8. The Commission finds OP’s recommendation to approve the Application persuasive and concurs in that judgment.

#### **“GREAT WEIGHT” TO THE WRITTEN REPORT OF THE ANCS**

9. The Commission must give “great weight” to the issues and concerns raised in a 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.).) 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 Board of Zoning Adjustment, 395 A.2d 85, 91 n.10 (1978) (citation omitted).”)
10. The Commission finds ANC 6E’s recommendation to approve the Application persuasive and concurs in that judgment. The Commission also finds that ANC 6C affirmatively chose not to consider the Application.

## **DECISION**

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the University has satisfied its burden of proof and therefore **APPROVES** the Application's request for a Modification of Consequence and authorizes the construction of the improvements as shown on the Final Plans (defined below) subject to the following conditions:

1. The Project shall be built in accordance with the plans and elevations dated October 2, 2023 (Ex. 3E1 – 3E2.) as updated by the plan submitted October 15, 2023 (Ex. 5A.) (the "Final Plans") subject to the following areas of design flexibility:
  - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, and toilet rooms, provided that the variations do not change the exterior configuration or appearance of the structure;
  - b. To vary the colors of the exterior materials based on availability at the time of construction, provided such colors are within the color ranges proposed in the Final Plans;
  - c. To make minor refinements to the locations and dimensions of exterior details that do not substantially alter the exterior design shown on the Final Plans. Examples of exterior details would include, but are not limited to, doorways, canopies, railings, and skylights;
  - d. To make refinements to the approved parking configuration, including layout and number of parking spaces plus or minus 10%;
  - e. To vary the location, attributes, and general design of the streetscape, subject to approval by public space officials;
  - f. To vary the amount, location and type of green roof and paved areas to meet stormwater requirements and sustainability goals or otherwise satisfy permitting requirements, so long as the Project achieves a minimum GAR of 0.2; and
  - g. To make minor refinements to vary the final design of the ground floor storefront features to accommodate the needs of its specific tenants and users, provided that storefront and building identification signage complies with District of Columbia signage regulations.
2. **For the life of the Project**, the University shall adhere to the Loading Management Plan submitted on October 15, 2023 as Exhibit 5B of the Record.

The Final Plans shall supersede the plans approved by the Commission in Z.C. Order No. 324 and, in the event of a conflict between the Final Plans and the plans or associated conditions approved

in Z.C Order No. 324, the Final Plans shall govern. All other conditions of Z.C. Order No. 324, as modified by Z.C. Order No. 80-07D, remain unchanged and in effect.

## **FINAL ACTION**

**VOTE** (November 30, 2023) **4-0-1:**

(Anthony J. Hood, Robert E. Miller, Joseph S. Imamura, and Tammy M. Stidham to **APPROVE**; 3<sup>rd</sup> Mayoral Appointee seat vacant).

In accordance with the provisions of Subtitle Z, Section 604.9, this Order No. 80-07E shall become final and effective upon publication in the *District of Columbia Register*; that is, on January 19, 2024.

## **BY THE ORDER OF THE D.C. ZONING COMMISSION**

A majority of the Commission members approved the issuance of this Order.



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ANTHONY J. HOOD  
CHAIRMAN  
ZONING COMMISSION



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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.