

GOVERNMENT OF THE DISTRICT OF COLUMBIA
ZONING COMMISSION



ZONING COMMISSION ORDER NO. 04-25
Z.C. Case No. 04-25
(Catholic University – Map Amendment)
June 20, 2005

Pursuant to proper notice, the Zoning Commission for the District of Columbia held a public hearing on April 14, 2005, to consider an application of Catholic University of America (“University” or “Applicant”) for a Zoning Map amendment of property identified as Parcel No. 121/29 of Square 3663 from unzoned to the R-5-A District under 11 DCMR §§ 102 and 3021. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Zoning Commission hereby approves the application.

Preliminary Matters

The University submitted an application on September 29, 2004, for a Zoning Map amendment for property identified as Parcel No. 121/29 of Square 3663 (“Property” or “West Campus”) from unzoned to the R-5-A District in order to allow use of the Property and its addition to the University campus. Also on September 29, 2004, the Applicant submitted an application requesting an amendment to the 2002 Master Plan of The Catholic University of America (“Campus Plan”), which guides the development of the campus through May 12, 2012, and the further processing of the Campus Plan to allow for certain enumerated uses on the Property. On December 13, 2004, the Zoning Commission set down for a public hearing the application for a map amendment.

The parties in this case are the Applicant, Advisory Neighborhood Commission (“ANC”) 5A, ANC 5C, and the Michigan Park Citizens Association. The Property is located within the boundaries of ANC 5C, while the University’s North Campus is within the boundaries of ANC 5A.

The Notice of Public Hearing was published in the *D.C. Register* on February 25, 2005 (52 *D.C.Reg* 1906). The Notice of Public Hearing was mailed to all property owners within 200 feet of the subject Property, as well as to the ANCs. Zoning placards were properly posted in a timely fashion.

At the public hearing, the Commission heard testimony from the Applicant and the Office of Planning as well as from two (2) persons in support. The Michigan Park Citizens Association testified in opposition to the application, citing a shortage of housing on the Main Campus and asserting that the Property was not appropriate for housing due to its distance from the Main

Campus. Both ANCs submitted letters in support of the application but did not testify at the hearing.

At a special public meeting held on May 16, 2005, the Zoning Commission took proposed action to approve the application for a map amendment from unzoned to the R-5-A District by a vote of 4-0-1. The Commission took final action to approve the application for the map amendment on June 20, 2005, by a vote of 3-0-2.

FINDINGS OF FACT

The Site and the Surrounding Area

1. The Property is a 49-acre parcel that lies immediately to the west of the University's Main Campus in Northeast Washington. The Property, which is unzoned, was acquired by the University from the U.S. Soldiers' and Airmen's Home in April 2004. The Property is improved with a few small structures, but the majority of the parcel is vacant.
2. The site is bounded by North Capitol Street to the west, Irving Street to the southwest, Michigan Avenue to the south, Harewood Road, N.E. to the east, and the Pope John Paul II Cultural Center to the north. In addition to Catholic University, also in the vicinity of the Property are the Veterans Administration Hospital and the McMillan Reservoir.
3. The University's campus is zoned R-5-A, except for certain areas located just south of Michigan Avenue.
4. The University is located in a primarily residential area of low- to medium-density development. Immediately surrounding the campus are many large institutional facilities, particularly houses of religious study, colleges, and hospitals, as well as some light industrial and commercial properties. The campus is divided into three (3) segments. The Main Campus, comprising 95.3 acres, contains the University's administrative, academic, and student life facilities. The South Campus, comprising 8.7 acres, is located south of Michigan Avenue and contains student housing and some support facilities. The North Campus contains 40.5 acres and is located north of Taylor Street. This area is used for recreation programs and includes an athletic center, stadium, and sports fields.

The Map Amendment

5. The Applicant seeks to establish R-5-A zoning on the Property. The R-5 Zone District is a general residence district designed to permit flexibility of design by permitting all types of urban residential development and the construction of those institutional and semi-public buildings that would be compatible with adjoining residential uses and that are excluded from the more restrictive Residence Districts. Pursuant to Section 210.3, the development parameters are prescribed by the 2002 Campus Plan approved by the Commission in Order 20-02. Accordingly, the maximum density for the campus is 1.8 FAR.

6. Section 492 of the District of Columbia Home Rule Act (D.C. Official Code § 6-641.02 (2001)), provides that zoning shall be “not inconsistent” with the Comprehensive Plan for the National Capital. The mapping of the R-5-A District on the Property will help carry out the Comprehensive Plan as set forth below:
 - a. *Land Use Element.* Objectives for public and institutional land use include to recognize the specialized land needs and unique economic and human development opportunities presented by colleges, universities, and other institutional users of large tracts, and to require the development of detailed master plans, if none exist, that incorporate all land and facilities concurrently in use or currently owned by the institution and anticipated for future use. 10 DCMR § 1115.1(j).
 - b. *Ward 5 Element.* Objectives for land use/zoning in Ward 5 include (a) to “protect and enhance the stability of residential neighborhoods,” 10 DCMR § 1629.1 (a), and (b) to “encourage and support an appropriate mix of uses in all economic development, where appropriate including uses such as housing, parks and open space.” 10 DCMR § 1629.1 (c).

Report of the Office of Planning

7. In its report of March 28, 2005, OP recommended approval of the University’s application for the zoning map amendment. OP noted that the R-5-A District is appropriate for university uses, noting that universities are a use permitted by special exception within the R-5-A District, subject to approval of a campus plan by the Zoning Commission. OP also noted that the requested map amendment would be consistent with the zoning in the surrounding areas since most of the other portions of the University campus are located within the R-5-A District and that other properties around the Property are zoned R-5-A or SP-1, or are unzoned due to institutional federal uses.
8. The Commission credits OP’s testimony that the Property is designated as “institutional” and “federal” on the Generalized Land Use Map and it is, therefore, appropriate to use the entire parcel for the use proposed by the Applicant.

Reports of Other Agencies

9. The Fire and Emergency Medical Services Department had no objection to the application, provided that any proposed development had acceptable access for emergency vehicles.
10. The Department of Health had no objection but, “expects [the Applicant] to comply with the District’s Environmental Laws as well as federal NPDES Regulations related to MS-4 Permits for construction activities involving an acre or more of land disturbance.”

Report of the National Capital Planning Commission

11. The National Capital Planning Commission ("NCPC") concluded that the zoning map amendment to the R-5-A District would not negatively affect the federal interest.

CONCLUSIONS OF LAW

Section 1 of the Zoning Act of 1938 (52 Stat. 797, as amended, D.C. Official Code § 6-641.01 (2001)) establishes the authority of the Commission to, "promote the health, safety, morals, convenience, order, prosperity, or general welfare of the District of Columbia" through regulation of the structures and uses on its land. Section 3 of the Zoning Act of 1938 (52 Stat. 797, 798, as amended, D.C. Official Code § 6-641.03 (2001)) establishes the authority of the Commission to amend the zoning maps of the District of Columbia.

The R-5-A District is specifically designed for low-density development of general residential uses. The Property's current unimproved state and the surrounding low-density residential and institutional uses, primarily of R-5-A and institutional federal uses, therefore, lends itself to R-5-A zoning. The Commission concludes that the R-5-A District is an appropriate zone district to be mapped over the Property.

The Commission further concludes that the requested map amendment from unzoned to R-5-A is not inconsistent with the Comprehensive Plan for the National Capital or with the purposes of the 1938 Zoning Act. The Commission also concludes that the proposed map amendment to R-5-A is consistent with the Generalized Land Use Map's designation of the subject property as "institutional" and "federal." The Commission cannot choose to retain an unzoned designation when zoning has been sought. Here, the Applicant has requested the most restrictive zoning category that is both suitable and not inconsistent with the Comprehensive Plan.

Based upon the above findings and conclusions, the Commission concludes that the requested map amendment is in the best interests of the District of Columbia and will benefit the communities near which the Property is located and the University.

The Commission notes the recommendations in support of the map amendment to R-5-A of ANC 5A, ANC 5C, and OP, and has accorded them the "great weight" to which they are entitled.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission hereby orders **APPROVAL** of the application for an amendment of the zoning map to change the status of the Property from unzoned to the R-5-A District.

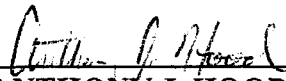
The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., (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, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the applicant to comply shall furnish grounds for denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this order.

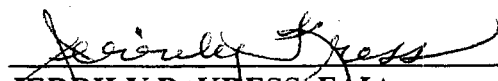
On May 16, 2005, the Zoning Commission approved the application by a vote of 4-0-1 (Anthony J. Hood, Kevin L. Hildebrand, John G. Parsons, and Gregory N. Jeffries to approve; Carol J. Mitten, having not participated, not voting).

This Order was adopted by the Zoning Commission at its public meeting on June 13, 2005, by a vote of 3-0-2 (Anthony J. Hood, Gregory N. Jeffries, and John G. Parsons to approve; Carol J. Mitten, having not participated, not voting; Kevin L. Hildebrand, not present, not voting).

In accordance with the provisions of 11 DCMR 3028, this Order shall become final and effective upon publication in the D.C. Register on AUG - 5 2005.



ANTHONY J. HOOD
VICE CHAIRMAN
ZONING COMMISSION



JERRILY R. KRESS, FAIA
DIRECTOR
OFFICE OF ZONING

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., SEPTEMBER 16, 2004

Plan for Building Permit of PARCEL 121/29

Scale: 1 inch = 200 feet Recorded in A & T Book 3515-H THRU K

Receipt No. 14307

Furnished to: SHAW PITTMAN

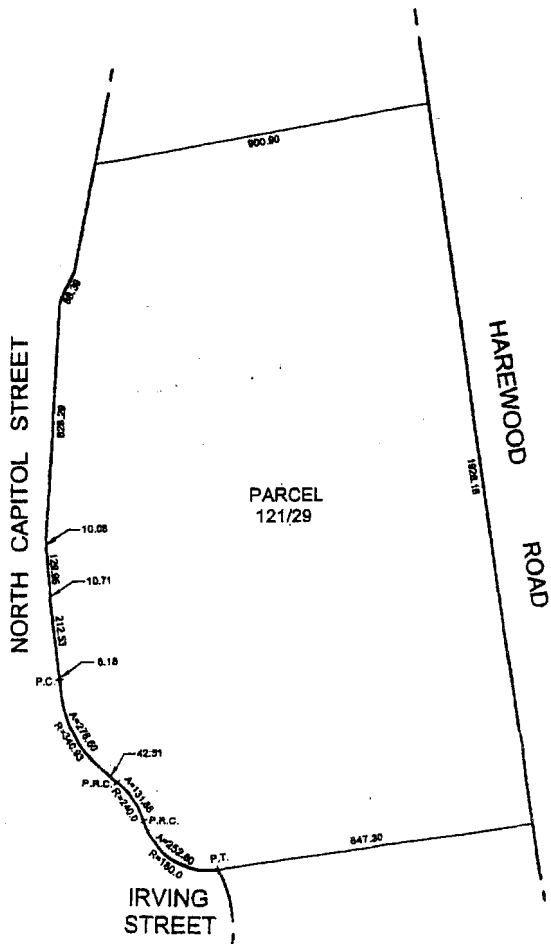

Surveyor, D.C.
By: B.D.M.

I hereby certify that all existing improvements shown herein, are completely delineated and are correctly plotted; that all proposed buildings or constructions, or other improvements, including covered porches, are correctly delineated and plotted and agree with plans accompanying the application; that the foundation plans on shown herein be drawn, and delineated in accordance to the same scale as the property lines shown on this approved plan by means of the proposed improvements to be erected as shown herein the plan of any adjoining lot or portions is not determined to an even less than is required by the Zoning Regulations for light and ventilation; and it is further certified and agreed that accessible parking areas which are required by the Zoning Regulations will be provided in accordance with the Zoning Regulations; and that the owner has been duly advised and disseminated thereon, it is further agreed that the situation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade steeper than that of driveway at any point on private property in excess of 20% for single-family dwellings or 15% in excess of 15% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 15% across the public parking and the private residential property.)

Date: _____

(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lists or Permits are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed descriptions.



Case No. 04-21

Government of the District of Columbia

OFFICE OF ZONING



Z.C. CASE NO.: 04-25

As Secretary to the Commission, I hereby certify that on Aug 05 2005 copies of this Z.C. Order Nos. 04-25 and 04-25A were mailed first class, postage prepaid or sent by inter-office government mail to the following:

1. *D.C. Register*
2. Allison C. Prince, Esq.
Shaw Pittman, LLP
2300 N Street, N.W.
Washington, D.C. 20037
3. Norma Broadnax, Chair
ANC 5A
Slowe School Demountable
14th & Irving Sts., N.E.
Washington, D.C. 20017
4. Sandra L. Washington, Chair
ANC/SMD 5A01
32 Buchanan Street, N.E.
Washington, D.C. 20011
5. James D. Berry, Jr., Chair
ANC 5C
680 Rhode Island Ave., N.E.
Washington, D.C. 20002
6. James W. Russell, Chair
ANC/SMD 5C10
620 Michigan Avenue, N.E.
Washington, D.C. 20064
7. ANC/SMD 5C11 - Vacant
8. Gottlieb Simon
ANC
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
9. Councilmember Vincent B. Orange, Sr.
10. Office of Planning (Ellen McCarthy)
11. Ken Laden, DDOT
12. Zoning Administrator
13. Office of Attorney General

ATTESTED BY:

Sharon S. Schellin

**Acting Secretary to the Zoning Commission
Office of Zoning**