

June 14, 2018

VIA IZIS

Chairman Anthony Hood  
District of Columbia Zoning Commission  
441 4<sup>th</sup> Street NW, Suite 210S  
Washington, DC 20001

Re: Request for a **Modification of Consequence**; Modifications of Approved Conditions of the University of the District of Columbia Campus Plan – Zoning Commission Order No. 11-02/11-02A

Dear Chairman Hood and Members of the Commission:

Pursuant to Subtitle Z; Section 703 of the Zoning Regulations (11 DCMR § 3129), the University of the District of Columbia (“**University**” or “**UDC**”) hereby submits an application for the review and approval of modifications to Conditions Nos. 8 and 15a, of Zoning Commission Order No. 11-02 / 11-02A.

**A. Background**

The Zoning Commission (“**ZC**”) approved the University of the District of Columbia New Campus Plan and Further Processing application pursuant to Order N. 11-02 /11-02A (the “**Order**” copy attached as Exhibit A). ZC Order No. 11-02/11-02A approved the UDC Van Ness Campus Plan for the period from 2011 - 2020 and approved a further processing under the approved Campus Plan to allow construction and use of a New Student Center subject to twenty-eight (28) conditions. The University has diligently complied with the vast majority of the 28 conditions but a few 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 and rationale for modification are detailed as follows below.

**B. Proposed Modification to Condition No. 8.**

B.1. Condition No. 8 currently states:

“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.”

B.2. 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. ~~Within three months of approval of the campus plan.~~ ***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.” *(Proposed new language in bold and italics, and deletions of old language in strike-through.)*

B.3. Status of Compliance Efforts and Reasons for Modification

The University, as a public institution is limited in its ability to regulate the actions of its students off-campus. The Code of Conduct of a public institution is required to comply with constitutional due process requirements concerning vagueness and over broadness, and must comply with a general requirement for even handedness. As written, this condition implies a broader applicability for the Code of Student Conduct than legally permitted for a public university.

The University is requesting a modification to ensure that its Code of Conduct will address off campus conduct that has a direct detrimental impact on the institution’s educational functions, while complying with the University’s constitutional obligations towards its students and will seek input from the Task Force for the revised Code of Conduct on or before December 31, 2018.

**C. Proposed Modification to Condition No. 15a**

C.1. Condition No. 15a currently states:

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;

C.2. 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 *include a parking policy directive to be included in new student and new employee orientation materials, as well as posted on the University's website which indicates that students, faculty and staff who drive to the campus should park in the University's parking facilities or other commercial parking garages and not 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; (Proposed new language in bold and italics, and deletions of old language in strike-through.)~~*

C.3. Status of Compliance Efforts and Reasons for Modification

Pursuant to District law, the University has no legal authority to prohibit members of the public or University students from parking on District streets. Therefore, the University also lacks legal authority to create an enforceable policy to accomplish this end.

**D. Conclusion.**

According to Subtitle Z, Section 703.4, "examples of modification 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" The proposed modifications are changes in conditions to a final order of the Commission. Finally, the proposed modifications, which affect only 2 of the total 28 conditions included in ZC Order No. 11-02/11-02A , constitute a relatively minor modification which can be considered by the Commission without the need for a public hearing.

If there are any questions regarding this modification application, please feel free to contact the undersigned.

Sincerely,



Cynthia Giordano  
Saul Ewing Arnstein & Lehr

**CERTIFICATE OF SERVICE**

I hereby certify that on June 14, 2018, a copy of the foregoing Modification of Consequence submission was served by electronic mail on the following at the addresses stated below, with hard copies mailed on June 14, 2018.

Mr. Joel Lawson  
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VIA U.S. MAIL AND EMAIL

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Van Ness Residents Association  
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VIA U.S. MAIL

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c/o David Wilson  
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Washington, D.C. 20008

VIA U.S. MAIL



Cynthia Giordano