

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 12-01C**

**Z.C. Case No. 12-01C
(Amendment to and Further Processing of an Approved Campus Plan
@ Square 3821, Lot 44)**

The Catholic University of America

July 27, 2020

Pursuant to notice, the Zoning Commission for the District of Columbia (“**Commission**”) held a public hearing on July 20, 2020, to consider an application of the Catholic University of America (the “**University**” or the “**Applicant**”) for the review and approval of a further processing application (the “**Application**”) pursuant to the 2012 Catholic University of America Campus Plan (the “**Campus Plan**”). The Commission considered the Application pursuant to Chapter 1 of the District of Columbia Zoning Regulations, Title 11-X of the District of Columbia Municipal Regulations (“**DCMR**”). The public hearing was conducted in accordance with the provisions of 11-Z DCMR, Chapter 4. The Commission approves the Application, subject to the conditions below.

FINDINGS OF FACT

Notice

1. On February 21, 2020, the University mailed a Notice of Intent to Advisory Neighborhood Commissions (“**ANC**”) 5A, 5B, and 5E, and all required property owners as required by Subtitle Z § 302.6. (Exhibit [“**Ex.**”] 2E.) In accordance with Subtitle Z § 302.8, representatives of the University made a presentation to ANC 5A at their February 26, 2020 public meeting. (Ex. 2A)
2. On May 27, 2020, the Office of Zoning (“**OZ**”) sent notice of the public hearing to:
 - The affected ANC 5A and adjacent ANCs 5B and 5E;
 - The affected ANC Single Member District (“**SMD**”) 5A04;
 - The Office of Planning (“**OP**”);
 - The District Department of Transportation (“**DDOT**”);
 - The Department of Consumer and Regulatory Affairs (“**DCRA**”);
 - The Office of Attorney General (“**OAG**”);
 - The Department of Energy and Environment (“**DOEE**”);
 - The DC Council; and
 - Property owners within 200 feet of the Property.(Ex. 5)
3. OZ also published notice of the July 20, 2020 virtual public hearing in the *D.C. Register* on June 5, 2020 (67 DCR 24) as well as through the calendar on OZ’s website. (Ex. 3)

4. Pursuant to Subtitle Z §402.3, the Applicant posted notice of the hearing on the Property on June 8, 2020 and maintained such notice in accordance with the Zoning Regulations. (Ex. 6A, 13.) The Applicant did request a waiver of the posting requirements to waive the notarization requirements for the postings. (Ex. 6.)¹ Such waiver was granted at the public hearing on July 20, 2020. (Tr. at [REDACTED])

Parties

5. The parties to the case were the Applicant and ANC 5A, the ANC in which the site is located. There were no requests for party status.

The Site

6. The property that is the subject of the Application is located in Square 3821, Lot 44 (the “**Property**”).
7. The Property is located in the RA-1 Zone and is part of the Campus Plan approved by the Commission in Order No. 12-01.
8. The Property is located on the northeastern portion of the main campus with John McCormack Road to the east and Taylor Street overpass to the north. The Property is currently vacant with a portion devoted to surface parking. The Property does not abut any residential property.

The Application

9. On May 11, 2020, the University filed the Application seeking modification of the Campus Plan and further processing approval to allow for construction of a residence hall that is larger than that contemplated by the Campus Plan and relocation of the designed chapel (the “**Project**”). (Ex. 1, 1A, 2, 2A-H2, 10, 10A-B)
10. The University supplemented the Application with a prehearing submission on June 30, 2020 and a hearing submission on July 20, 2020. (Ex. 10, 10A-B, 14)
11. The Project consists of a new 366-bed residence hall and chapel which will be approximately 65 feet in height and 103,829 square feet in size. The overall density of the campus will remain what is permitted under both the Campus Plan and the RA-1 zone district. The resulting total campus floor area ratio (“**FAR**”) will be 0.27, below the maximum campus plan FAR of 0.39. (Ex. 2A, Tr. at [REDACTED])
12. The project proposes a 65-foot building in the RA-1 Zone. Pursuant to 11-X DCMR § 101.5, campus structures in the RA-1 Zone are generally limited to 50 feet in height.

¹ The Applicant noted the notarization waiver was due to the ongoing COVID-19 pandemic and its impact on the ability to obtain notarizations due to the District of Columbia not yet having put in place remote notarization protocols. As detailed in the Affirmation of Posting and Affirmation of Maintenance, the Applicant did post and maintain notice of the hearing in accordance with the requirements of the Zoning Regulations.

However, pursuant to 11-F DCMR § 203.4, an institutional building may exceed the height provided it is setback one foot from the property line for every foot it exceeds the height limit. The University's plans confirm that the project meets the setback required to achieve the 65-foot height proposed.

13. The proposed residence hall is slightly larger than what is proposed in the Campus Plan. Additionally, the chapel as designed has been relocated from its location at the end of the residence hall in the Campus Plan to the center of the residence hall, separating the two wings. These two changes necessitate the modification being sought, but otherwise the Project is generally consistent with the Campus Plan. (Ex. 2A)
14. The Campus Plan was approved prior to the Green Area Ratio ("GAR") requirements being enacted. Nonetheless, as the plans illustrate, the Project will exceed the GAR requirements. Therefore, the Commission finds the Project compliant with the standards set forth in Subtitle C § 601.6. (Ex. 2H1)

Relief Requested

15. The Applicant requested special exception approval for modification of the Campus Plan to allow for a larger residence hall and relocation of the designed chapel. The Campus Plan anticipated the residence hall and chapel would consist of 66,500 square feet combined. The Applicant revised this plan for a proposed residence hall and chapel consisting of 103,829 square feet. (Ex. 2A, 2H1, 2H2)

Applicant's Statement

Project Impacts

16. The Project satisfies the expansion and replacement of existing residence facilities as anticipated in the Campus Plan. (Tr. at [redacted]) The proposed residence hall will be located directly east of the existing Opus Hall residence hall, which, at over a decade old is the newest building on campus. (Tr. at [redacted]) The Project will replace parking, furthering the effort to green the campus. (Tr. at [redacted]) The Project will also allow for the creation of a student quadrangle with areas for both active and contemplative activities, as well as more naturally integrate the chapel into daily student life. (Tr. at [redacted])
17. The Project will not have any adverse effects on neighboring properties. The Property does not abut any residential property and because no parking is associated with the Project, it will not affect circulation patterns. (Ex. 2A.) The residence hall will not increase noise levels on campus as the proposed building does not include balconies and activity would be concentrated internally on the student quadrangle. (Ex. 11.) The Project will serve the existing student population and does not coincide with an increase in enrollment. (Ex. 2A)
18. The Commission finds the Project provides benefits to the overall campus plan and does not pose adverse impacts on the campus or the surrounding areas.

Not Inconsistent with the Comprehensive Plan

19. The Project is not inconsistent with the District Elements of the Comprehensive Plan as detailed in the Campus Plan. (Ex. 2A)

Responses to Application

Office of Planning (“OP”)

20. By report dated July 10, 2020, OP recommended approval of the Application as the proposed changes would have no adverse impacts on the surrounding area and would achieve certain goals contemplated in the Campus Plan. OP also included comments from the Department of Energy and Environment encouraging the University to consider certain environmental factors moving forward, which the Applicant noted were being considered on a campus-side basis. (Ex. 11; Tr. at [REDACTED])

Advisory Neighborhood Commission

21. The Applicant attended the ANC 5A public meeting on February 26, 2020. The Applicant testified that the ANC subsequently voted to approve the application, but failed to submit a letter into the record. (Tr. at [REDACTED])

Public Hearing of July 20, 2020

22. The Commission held a virtual public hearing on the Application on July 20, 2020. The Applicant presented the testimony of Debra Nauta-Rodriguez on behalf of the Applicant and Matt Bell on behalf of Perkins Eastman, who was accepted by the Commission as an expert in architecture. (Ex. 10B)
23. OP rested on the record of its report and recommended approval of the Project. (Tr. at [REDACTED])

CONCLUSIONS OF LAW

1. Because a decision by the Commission to approve this application would not be adverse to any party, the Commission authorized a summary order and did not require the order to include findings of fact and conclusions of law in this case, pursuant to Subtitle Z § 604.7. As directed by Subtitle X §§ 101.9 and 900, the Commission required the Applicant to satisfy the burden of proving the elements of Subtitle X § 901, which are necessary to establish the case for a special exception for a college or university.
2. Based upon the record before the Commission, the Commission concludes that the Applicant has satisfied all standards set forth in Subtitle X § 101, including compliance with all conditions of the Campus Plan as applicable to this Project.

3. Based upon the record before the Commission, the Commission concludes that the Applicant has met the burden of proof pursuant to Subtitle X § 901 and that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map; and that the requested relief will not tend to adversely affect the use of neighboring property as the record reflects no objections to the application.

“Great Weight” to the Recommendations of OP

4. 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, the Commission must give “great weight” to the recommendations of OP. *Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1086 (D.C. 2016).
5. OP submitted a written report recommending approval of the campus plan amendments and further processing. (Ex. 11.) OP was also supportive of the design direction for the building. (Tr. at [REDACTED].) The Commission finds persuasive OP’s recommendation that the Commission approve the Application and therefore concurs in that judgment.

“Great Weight” to the Written Report of the ANC

6. 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)) and Subtitle Z §406.2, the Commission must give “great weight” to the issues and concerns raised in the written report of the affected ANC. To satisfy this great weight requirement, District agencies 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).
7. The Applicant testified that the ANC did vote to support the application. (Tr. at [REDACTED].) However, the ANC did not submit a written report in this case; therefore, the Commission has nothing to which it can give “great weight.”

DECISION

In consideration of the record and the Findings of Fact and Conclusions of Law herein, the Zoning Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the further processing application, subject to the following guidelines, conditions, and standards:

1. The Project shall be developed in accordance with the plans prepared by Perkins Eastman, dated May 7, 2020 and marked as Ex. 2H1 and 2H2 of the record and the additional plans marked as Ex. 10B (collectively the “Plans”).
2. The Applicant is granted flexibility from the requirements of the Campus Plan to construct a new residence hall comprising 103,829 square feet as opposed to 66,500 square feet and relocating the designed chapel from the original position as shown in the Campus Plan, consistent with the Plans and subject to the following areas of 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 make minor refinements to the locations and dimensions of exterior details that do not substantially alter the exterior design shown on the Plans. Examples of exterior details would include, but are not limited to, doorways, canopies, railings, and skylights;
 - c. To provide a range in the approved number of dwelling units and number of beds of plus or minus ten percent (10%);
 - d. To vary the final landscaping materials on private property as shown on the Plans based on availability and suitability at the time of construction or otherwise in order to satisfy any permitting requirements of DC Water, DDOT, DOEE, DCRA, or other applicable regulatory bodies;
 - e. To vary the final design and layout of the mechanical penthouse to accommodate changes to comply with Construction Codes or address the structural, mechanical, or operational needs of the building uses or systems; and
 - f. To vary the final design and layout of the indoor and outdoor amenity spaces to reflect their final design and programming.
3. The application approved by this Commission shall be valid for a period of two years from the effective date of this Order. Within such time, an application for a building permit must be filed as specified in 11-Z DCMR § 702.2. Construction must begin within three years after the effective date of this Order. (11-Z DCMR § 702.3)
4. 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.

5. All of the conditions of Order Nos. 12-01, 12-01A, and 12-01B shall remain in full force and effect.

VOTE FINAL ACTION: **5-0-0** (Peter A. Shapiro (m), Chairman Anthony J. Hood (s), Vice Chairman Robert E. Miller, Michael G. Turnbull and Peter G. May to **APPROVE**).

In accordance with the provisions of 11-Z DCMR § 604.9 of the Zoning Regulations, this Order 12-01C shall become final and effective upon publication in the D.C. Register; that is, on

ANTHONY HOOD
Chairman, Zoning Commission

SARA B. 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.