

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 12-15C  
Z.C. Case No. 12-15C  
Gallaudet University  
(Amendment to Approved Campus Plan @  
Square 3593, Lot 4 and Part of Lot 6 (together, former Parcel 141/69)  
January 27, 2022

Pursuant to notice, at its November 4, 2021 public hearing, the Zoning Commission for the District of Columbia (the “Commission”) deliberated on the application (the “Application”) of Gallaudet University (the “Applicant” or the “University”) for an amendment to an approved University Campus Plan for the following under Subtitle X § 101 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations (“DCMR”), “Zoning Regulations of 2016,” to which all subsequent citations refer unless otherwise specified) for Lot 4 and a portion of Lot 6 in Square 3593, collectively formerly known as Parcel 141/69 (the “Property”). The Commission reviewed the Application pursuant to the Commission’s Rules of Practice and Procedures in Subtitle Z. For the reasons stated below, the Commission **APPROVES** the Application to:

- Install and construct certain landscaping, hardscaping and community amenities along the Property's western boundary to establish a promenade (“Creativity Way”) functioning as a gathering and activity space for the University and the public;
- Relocate and realign a campus access road (“Tapscott Street”);
- Remove a small sliver of approximately 5,977 square feet of land from the Campus Plan controls to the planned unit development (“PUD”) to be located on University-owned land abutting the Property (in PUD modification application submitted as Z.C. Case No. 15-24B) and to rezone the land and incorporate it as part of the PUD in that separate case;
- Install and construct a memorial garden commemorating the history of the Black Deaf experience at the University (tentatively, “Kendall School Division II Memorial”); and
- Extend the validity of the current approved Campus Plan, as amended by the present application, through December 2027.

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

## FINDINGS OF FACT

### I. Background

#### Parties

1. The only parties to the Application other than the Applicant were: Advisory Neighborhood Commission (“ANC”) 5D, within whose boundaries the Property is located the “affected” ANC; ANC 6A and ANC 6C, which ANCs are located directly across the street from the Property. Accordingly, ANC 5D, ANC 6A, and ANC 6C are all considered "affected ANCs" pursuant to Subtitle Z § 101.8.
2. The Commission received no requests for party status.

#### Notice

3. The Applicant served the Application on the Affected ANCs on August 11, 2021, as evidenced by the certificate of service included in the Application. (Exhibit [“Ex.”] 2.)
4. On September 13, 2021, the Office of Zoning (“OZ”) sent notice of the November 4, 2021 public hearing to: (Ex. 9, 10.)
  - Applicant;
  - ANC 5D;
  - ANC 5D01 Commissioner, whose district includes the Property;
  - The Office of Planning (“OP”);
  - The Department of Transportation (“DDOT”);
  - The Department of Energy and the Environment (“DOEE”);
  - The District Department of Consumer and Regulatory Affairs (“DCRA”);
  - The Office of the Attorney General (“OAG”);
  - The Ward 5 Councilmember, whose ward includes the Property;
  - The Chair and At-Large members of the Council of the District of Columbia;
  - The owners of property within 200 feet of the Property; and
  - The Office of the ANC.
5. OZ published notice of the November 4, 2021 public hearing, in the September 17, 2021 *D.C. Register* (68 DCR 009794). (Ex. 8.)
6. On September 27, 2021, the Applicant submitted a waiver request from the public hearing notice requirements of Subtitle Z § 402.4, specifically to post notice in front of each building located on campus; the Commission granted the waiver. (Ex. 15, 15A.)

#### Prior Approvals

7. Pursuant to Z.C. Order No. 12-15, dated March 7, 2013, the Commission approved a renewal of the University's Campus Plan for the Property, effective until December 31, 2022 (the “2012 Campus Plan”).

8. The 2012 Campus Plan was amended pursuant to Z.C. Order No. 12-15A, dated December 18, 2014, including further processing under the 2012 Campus Plan to permit construction of a new dormitory for the Model Secondary School for the Deaf (“MSSD”), the high school located on the Clerc Center portion of the campus.
9. The 2012 Campus Plan was further amended pursuant to Z.C. Order No. 12-15B, dated September 28, 2018, by modification of consequence, to permit the demolition of the vacant Ballard North dormitory, consistent with the 2012 Campus Plan.

## **II. The Application**

10. On August 11, 2021, the Applicant filed the Application requesting amendment to its approved 2012 Campus Plan to facilitate a series of landscaping, hardscaping and other site improvements within the campus boundaries. These improvements include the creation of a park-like promenade along the western edge of the campus to serve as an informal gathering and activity space, providing a new gateway and connection between the campus and an increasingly vibrant commercial corridor to the west of the campus, and the installation of a memorial garden commemorating the Black Deaf experience across the University’s history. Conceptual drawings of these proposed improvements are included in the record. (Ex. 31A-F.)
11. The Application was submitted in coordination with a proposed modification to, and second-stage review of, the multi-phased, mixed-use PUD approved by the Commission along 6<sup>th</sup> Street, N.E., that has been submitted to the Commission as Application No. 15-24B. Included in the Application is a request to relocate and realign a portion of Tapscott Street, a gated private road accessing the campus from 6<sup>th</sup> Street, N.E., in order to better align and integrate the campus entrance with the adjacent PUD development, as was contemplated as part of the PUD approval, and a related request to remove a small parcel of land (approximately 5,977 square feet on Lot 6 in Square 3593) from the residentially-zoned portion of the campus (reflecting the abandoned segment of Tapscott Street), which parcel is requested to be rezoned and incorporated into the PUD as part of the PUD modification application.
12. The Application also includes a request by the University that the Commission approve an extension of the current Campus Plan approval for an additional five years, to expire on December 31, 2027, given the ongoing health emergency and the University’s immediate focus on addressing issues of operational concern that may delay meaningful consideration and outreach related to long-term planning initiatives.

### **Agency and Community Response**

13. OP submitted a report dated October 27, 2021, recommending approval of the Application (the “OP Report”). (Ex. 25.) The OP Report noted that the Application contains two campus plan amendments it supports, namely the removal of 5,997 square feet of land from the Campus Plan controls, and the proposed five-year time extension of the 2012 Campus Plan validity. OP considered the remaining elements listed in the Application, namely the reconfiguration of the University access road, the establishment of the campus promenade

and the installation of the memorial garden, as not requiring Commission approval of amendment to the 2012 Campus Plan as they did not involve construction of buildings or new building square footage. The OP report contained an analysis of the Application under the Comprehensive Plan, including the directive under the Implementation Element of the Comprehensive Plan that the Commission evaluate all actions through a racial equity lens as part of its Comprehensive Plan consistency analysis. OP determined that the Application, specifically the realignment of Tapscott Street and establishing Creativity Way, would advance equity and give all residents, from all economic, racial and social backgrounds, access to the campus. Further, bridging the gap between the surrounding community and the University would serve to help to end the exclusion of the residents from the campus, while similarly giving students and faculty access to the surrounding community. OP also concluded that the Application would not be inconsistent with the Comprehensive Plan Maps and Citywide Elements.

14. DDOT submitted a report dated October 25, 2021, addressing both the Application and the PUD modification application in Z.C. Case No. 15-24B (the "DDOT Report"). (Ex. 22.) The DDOT Report indicated no objection to the Application and the PUD modification, with certain conditions requested to be included as part of the final order in the PUD modification.
15. ANC 5D submitted a written report stating that at its duly noticed public meeting of October 12, 2021, at which a quorum was present, ANC 5D voted unanimously to support the Application (the "ANC Report"). (Ex. 28.) The ANC Report noted that the ANC is excited by the plans shared for the publicly-accessible open spaces and believes they will be a welcomed addition to the community.
16. ANCs 6A and 6C did not participate in this proceeding.

### **Letter of Support**

17. Paul Mandsager submitted a letter in support of the Application on September 22, 2021. He lives in close proximity to the University and believes the proposed amendments are a clear improvement over existing conditions and that it would improve all aspects of the neighborhood. (Ex. 12)

## **CONCLUSIONS OF LAW**

### **Authority**

1. Pursuant to the authority granted by the Zoning Act (June 20, 1938, 52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2018 Repl.)), the Commission may approve a university campus plan and amendment to an approved campus plan consistent with the requirements of Subtitle X, Chapter 1, and Subtitle Z, Chapter 3.
2. Pursuant to Subtitle X § 101.1, education use by a college or university shall be permitted as a special exception subject to review and approval by the Commission under Subtitle X, Chapter 9, after its determination that the use meets the applicable standards and conditions of said chapter.

3. Pursuant to Subtitle X § 101.2, the uses shall be located so that they are not likely to become objectionable to neighboring property because of noise, traffic, parking, number of students, or other objectionable conditions.
4. Pursuant to Subtitle X § 101.4, the campus plan process shall not serve as a process to create general commercial activities or developments unrelated to the educational mission of the applicant or that would be inconsistent with the Comprehensive Plan.
5. Pursuant to Subtitle X § 101.11, in reviewing and deciding a campus plan application or new building construction pursuant to a campus plan, the Commission shall consider, to the extent they are relevant, the policies of the District Elements of the Comprehensive Plan.
6. Pursuant to Subtitle X § 101.14, approval of a campus plan shall be based on the determination by the Commission 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.
7. Based on the case record, and the Findings of Fact above, the Commission concludes that: the uses, landscaping, hardscaping and other site improvements proposed in the Application shall be located so that they are not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions; that the University intends to continue to uphold its obligations as a good neighbor within its community and commits to remaining an active participant in the community, maintaining its open relations with nearby residents and businesses, especially through the affected ANCs; that the proposed amendments, which would facilitate development of the linear open space as a vibrant entry point to the campus from the west and creation of a significant memorial garden in commemoration of the Black Deaf experience historically, will not create any excessive or uncontrolled traffic, noise or other objectionable conditions.
8. Based on the case record, and the Findings of Fact above, the Commission concludes that: the campus plan process shall not serve as a process to create general commercial activities or developments unrelated to the educational mission of the applicant or that would be inconsistent with the campus plan; that the uses, landscaping, hardscaping and other site improvements are not proposed as commercial uses but rather as a meaningful entry point, pedestrian passage, buffer and connection, and vibrant gathering space for students of the University and members of the public, incorporating leading DeafSpace planning principles.
9. Based on the case record, and the Findings of Fact above, the Commission concludes that: the maximum total density of all buildings on the campus is well under 1.8 FAR, in accordance with the maximum total density requirements of Subtitle X § 101.5, and the improvements proposed by the amendments would add only a de minimis amount of

additional gross floor area, if any; likewise, the relocation of the segment of Tapscott Street, allowing the University to remove the area of abandonment (approximately 5,977 square feet) from the Campus Plan controls and for that parcel to be rezoned and incorporated into the adjacent PUD will result in a de minimis change in the overall GFA and FAR calculations for the campus given that the overall land area for the Property exceeds four million square feet.

Based on the case record, and the Findings of Fact above, the Commission concludes that: approval of the Application to amend the 2012 Campus Plan 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 Maps.

**“Great Weight” to the Recommendations of OP**

10. 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, 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, 1087 (D.C. 2016).)
11. The Commission appreciates the analysis of the OP, including the extensive review of the Application through a racial equity lens as directed by the Implementation Element of the Comprehensive Plan. The Commission concurs with that analysis. The Commission likewise appreciates the analysis undertaken by OP to determine that the Application satisfies the requirements of the Zoning Regulations application to university campus plans, as set forth in the Subtitle X § 101 of the Zoning Regulations. Whereas, the OP report indicated that the components of the Application related to the park-like open space promenade, the memorial garden and the relocation of the campus service road do not require Commission approval as part of the Campus Plan, the Commission nevertheless determines that such uses are appropriate and consistent with the Commission's approval of the 2012 Campus Plan.

**“Great Weight” to the Written Report of the ANC**

12. 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).)
13. The Commission finds ANC 5D’s support for the Application persuasive and concurs that the plans shared by the Applicant for the publicly-accessible open spaces will be a welcomed addition to the community.

**DECISION**

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application's request for an amendment to the 2012 Campus Plan and modifications to Z.C. Order No. 12-15, as previously modified by Z.C. Orders No. 12-15A and 12-15B.

The 2012 Campus Plan shall be amended in accordance with the plans and materials submitted by the Applicant marked as Ex. 31A-F of the record, as modified by the guidelines, conditions, and standards of this Order.

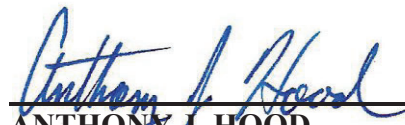
All references in the 2012 Campus Plan to "Sixth Street and Florida Avenue" development, "Sixth Street mixed-use development", "Campus Gateway" and similar references predating the current plans are hereby updated to reflect and incorporate the amendments proposed herein at Ex. 31A-F.


Condition No. 5 of Z.C. Order 12-15 is amended, as follows:

The 2012 Plan shall be valid for a period of 10 years, for a term ending on December 31, ~~2022~~ 2027.

**VOTE (January 27, 2022): 5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Joseph Imamura to **APPROVE**).

In accordance with the provisions of Subtitle Z § 604.9, this Order No.12-15C shall become final and effective upon publication in the *DC Register*; that is, on August 19, 2022.

  
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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.