

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 12-01  
Z.C. Case No. 12-01  
The Catholic University of America  
(Special Exception Approval of a Campus Plan for 2012-2027)  
April 30, 2012

This case is an application by The Catholic University of America (the "University" or "CUA" or "Applicant") requesting special exception approval under the campus plan provisions of the Zoning Regulations at 11 DCMR §§ 3104.1 and 210 for a campus plan for the years 2012-2027. In accordance with § 3035.4 of the Zoning Regulations, this case was heard and decided by the Zoning Commission for the District of Columbia (the "Commission") using the rules of the D.C. Board of Zoning Adjustment ("BZA" or "Board") at 11 DCMR §§ 3100 *et seq.* For the reasons stated below, the Commission hereby approves the application, subject to conditions.

**HEARING DATE: March 22, 2012**

**DECISION DATE: April 30, 2012**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

**FINDINGS OF FACT**

**Applications, Parties, and Hearing**

1. The property that is the subject of this application is located in Northeast Washington, and is identified as Square 3671, Lots 2, 3, 802; Square 3821, Lot 44; and Parcel 121/29 ("Campus" or "Property"). (Exhibits ("Ex.") 1, 5, 7, 15.)
2. CUA previously had campus plans approved in 1975, 1992, and 2002. The Campus Plan approved by the BZA in 1975 (BZA Order No. 12002) was for a period of 15 years. The Campus Plan approved by the BZA in 1992 (BZA Order No. 15382) was approved for a period of 10 years. The Campus Plan approved by the Commission in 2002 (Z.C. Order No. 02-20) was approved for a period of 10 years. The Campus Plan approved by this Order is for a period of 15 years. (Ex. 5, p. 10.)
3. On December 30, 2011, the University submitted an application seeking special exception review and approval of a new campus plan for the years 2012-2027 for the Property. The University submitted a corrected application form on January 5, 2012 (collectively, "2012 Plan" or "2012 Campus Plan"). (Ex. 1, 4, 5.)

4. Notice of the public hearing was published in the *D.C. Register* on January 27, 2012 (59 DCR 529) and was mailed to Advisory Neighborhood Commissions (“ANC”) 5A and 5C and to owners of all property within 200 feet of the Property.
5. The public hearing on the application was conducted on March 22, 2012. The hearing was conducted in accordance with the provisions of 11 DCMR §§ 3022 and 3117.
6. In addition to the Applicant, ANCs 5A and 5C were automatically parties in this proceeding. Both ANCs submitted resolutions in support of the 2012 Plan. (Ex. 16 and 14, respectively.)
7. The University was granted one hour to present its 2012 Plan. The University presented evidence and testimony from Cathy Wood, Vice President for Finance and Treasurer of the University; Kevin Petersen with Ayers Saint Gross, accepted as an expert in architecture; and Chris Conklin and Dan Lovas with VHB, both accepted as experts in traffic engineering.
8. The District Department of Transportation (“DDOT”) submitted a report into the record on March 12, 2012, in support of the application with conditions. (Ex. 13.)
9. The Office of Planning (“OP”) submitted a report into the record on March 12, 2012, in support of the application with conditions. (Ex. 15.)
10. Both OP and DDOT offered testimony in support of the application at the public hearing.
11. The Commission heard testimony and received evidence in support of the 2012 Campus Plan from Albrette “Gigi” Ransom, Single Member District Representative for ANC 5C12. (Ex. 18.)
12. At the close of the hearing, the Commission requested additional information regarding the following items: (1) whether a covenant was recorded against the North Campus precluding its transfer; (2) the membership and operations of the proposed community advisory committee, including specification of who has voting power; (3) a site plan of the West Campus at the end of the 15-year period; (4) a special events parking plan; (5) a response to DDOT’s report and proposed conditions; (6) an exhibit showing the conditions of Hawaii Avenue; and (7) an explanation of how open space improvements will be tied to the implementation of the Campus Plan. The Applicant requested to submit a final Campus Plan document and Transportation Study into the record. The Applicant submitted these items on April 2, 2012. With the exception of these items, the record was closed. (Ex. 22.)
13. At a public meeting on April 30, 2012, the Commission took final action to approve the application in Z.C. Case No. 12-01, subject to conditions.

**The Property**

14. The Property consists of approximately 181.4 acres of land: the North Campus, which is located on the north side of Taylor Street and is bounded by Hawaii Avenue to the west, John McCormack Road to the east, and Bates Road to the north, is approximately 37 acres in size; the West Campus, which is bounded by North Capitol Street to the west and Harewood Road to the east is approximately 49 acres in size; and the Main Campus, which is bounded by Taylor Street to the north, John McCormack Road to the east, Harewood Road to the west and Michigan Avenue to the south, is approximately 96 acres in size. (Ex. 5, p. 24.)
15. The University plans to transfer five acres of land on the West Campus to the National Shrine of the Immaculate Conception. Upon transfer of the five acres the University campus will consist of approximately 176.4 acres. (Ex. 5, p. 24.)
16. The Main Campus and the North Campus are located in the R-5-A Zone District in the Diplomatic Overlay. The West Campus is located in the R-5-A Zone District. (Ex. 5, p. 101.)
17. The existing gross floor area of the campus is 2,328,753 square feet, or 0.29 floor area ratio ("FAR"). (Ex. 15, p. 6.)
18. The majority of the improvements are located on the Main Campus. The North Campus is occupied primarily with athletic facilities. The West Campus offers passive recreation for students as well as areas of spiritual repose. (Ex. 5, p. 106.)
19. The Campus is located in the Institutional land use category on the Future Land Use Map and Generalized Policy Map of the Comprehensive Plan of the National Capital. (Ex. 5, p. 106; Ex. 15, pp. 15-19.)

**Campus Plan Application & Community Dialogue Process**

20. The 2012 Plan reflects the University's mission to continue to forge a solid educational tradition based on its Catholic mission. (Ex. 5, p. 2.) The University provides doctoral and other graduate and professional programs, as well as an undergraduate education grounded in the liberal arts. (Ex. 5, p. 3.)
21. The University committed itself to engaging with as many faculty members, staff, students, alumni, neighbors, and civic and community leaders as possible in developing the 2012 Campus Plan. (Ex. 5, p. 12.)
22. The 2012 Campus Plan has four distinct goals: to promote the distinctive Catholic culture of the University; to strengthen academic excellence; to enhance student collegiate experience; and to improve the experience of work. (Ex. 5, p. 14.)

23. The 2012 Campus Plan was developed in six phases. The first phase included observations and analysis. During this phase, the University generated the data necessary for a realistic portrait of the University. The second phase was concept development, where a plan was developed from the principles and information accumulated during the Observation Phase to establish a common vision for the development of the Campus. The third phase included campus area studies to evaluate and refine different scenarios for the Campus. The fourth phase resulted in the preliminary plan and the fifth phase resulted in the final plan, which consists of documents and illustrations that assemble the work generated in previous phases. The sixth phase involved a series of public forums to vet the plan with stakeholders in the community. (Ex. 5, pp. 12-13.)
24. During the course of creating the 2012 Campus Plan, the University hosted several meetings and dinners for members of the community to discuss any comments or concerns they may have with the Plan. The University also attended numerous community meetings scheduled by the ANCs and community groups. (Ex. 18, p. 2.)

#### **Review of § 210 Requirements**

25. Pursuant to 11 DCMR § 210.1, the University is an academic institution of higher learning. The University was formally established as a center for graduate studies in theology at the Third Plenary Council of Baltimore in 1884. On April 21, 1887, the University was formally incorporated under the laws of the District of Columbia, and in 1928 a special act of Congress expanded the University's authority, extended its services, and increased the membership of its governing body, the Board of Trustees. (Ex. 5, p. 100.)
26. As required by 11 DCMR § 210.2 and as described in greater detail below, the University demonstrated that the proposed uses and developments are located so as not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable impacts. Specifically, the proposed improvements are largely buffered from the neighboring community. Further, the University proposed conditions to avoid creating any adverse impacts on the greater neighborhood. The University is proposing an increase in its student and faculty and staff populations in an attempt to return to its historic levels of enrollment. (Ex. 5, pp. 100-101.)
27. Section 210.3 requires that the development proposed under a campus plan not exceed the gross floor area prescribed for the R-5-B Zone District. The work proposed with the Campus Plan will not exceed a 1.8 FAR, but will result in 0.39 FAR upon complete build-out of all components of the Plan and the transfer of the five acres to the National Shrine of the Immaculate Conception. (*Id.* at 101-102.)
28. The Applicant submitted a plan for developing the Campus as a whole, showing the location, height, and bulk of all present and proposed improvements, as required by 11 DCMR § 210.4. There are four types of modifications the University proposes to its

Campus: improvements to the physical facilities; improvements to the open spaces; defining campus boundaries; and modifications to existing buildings. Despite the projected increase in student and staff populations, the University is proposing a net decrease of seven parking spaces. (*Id.* at 103-106; Exhibit 15.)

- (a) On-Campus Parking: The University will reduce on-campus parking from the existing supply of 1,927 spaces to 1,920 spaces by the end of 2012; (Ex. 15; Ex. 24, Tab A, pp. 65-75.)
  - (b) Loading: Loading will become more centralized as all loading activities will be moved to the east and north on the Main Campus. There will be four loading areas; three will be accessed by service drives not open to public vehicular traffic and the fourth will be accessed from John McCormack Road. Consolidating the loading and shifting it to the campus periphery will enhance the campus experience while preserving green spaces and pedestrian walks;
  - (c) Screening and Signs: The University will provide increased signage at the Metrorail station and the campus entrances at Michigan Avenue and Harewood Road to guide visitors directly onto campus and into the heart of the University;
  - (d) Public Utilities and Facilities: There are no current plans for any utility expansions for the University and no special utility development conditions are expected to be required in the next 15 years. General upgrades and improvements are, however, anticipated as part of the Master Plan implementation, including the potential construction of a water tower;
  - (e) Streets: The 2012 Campus Plan introduces a new vehicular approach to the campus via North Capitol Street through the West Campus. The University also proposes to close a number of existing campus roadways to vehicular traffic and to consolidate parking from numerous surface lots to a smaller number of new or existing parking lots and garages; and
  - (f) Athletic and Recreational Facilities: The University plans to construct a 122,000 square foot addition to the athletic facilities on the North Campus. The addition will include a stronger connection to the Main Campus across Taylor Street.
29. The University is not proposing an interim use of the land (*see* § 210.5). (Ex. 5 at p. 106.)
  30. The University is not proposing to move a major new building off-campus (*see* § 210.6). (*Id.*)
  31. Pursuant to § 201.7, the 2012 Campus Plan is in compliance with the policies of the District elements of the Comprehensive Plan. The campus is designated for institutional

use on the District of Columbia's Land Use Map. College and University uses are consistent with this designation. Further, the 2012 Campus Plan carries out many important policies of the Comprehensive Plan pertaining to architectural character, physical and symbolic imagery, streetscapes, sidewalks and urban parks and places. It also encourages private sector growth and provides employment opportunities. The 2012 Campus Plan is also consistent with the Upper Northeast Area Element and the Brookland/CUA Small Area Plan, both of which call for strengthening the connection between the University and the Metrorail station. (*Id.*)

32. The Applicant's plan for developing the Main Campus is consistent with the existing framework of buildings and open spaces and will maintain its tradition of vibrant landscaping. The Applicant proposes to reduce vehicle traffic by implementing transportation demand management tools to reduce single occupancy vehicle trips to the Campus. The Applicant provided additional details, including location, height and bulk of the proposed improvements to the Main Campus, as described below. (Ex. 5, 6, 23-25.)
33. Pursuant to § 210.9, the Commission received reports in support with conditions from OP and DDOT regarding the 2012 Campus Plan. (Ex. 13, 15.)

### **Section 210 Evaluation**

#### **Noise**

34. The Commission finds that activities within the campus plan boundaries will be located to minimize objectionable impacts due to noise. The Campus is largely insulated from neighboring residential uses. Religious and educational institutional uses border the Campus along Harewood Road and Michigan Avenue; to the West is North Capitol Street and to the east are CSX railroad tracks. Industrial uses are located to the north of the Campus. The new facilities or additions to existing facilities proposed in the 2012 Plan were designed and located to minimize noise impact on the surrounding community. (Ex. 5, 15.)

#### **Traffic**

35. The University's transportation study ("Transportation Report") included with its application and prepared by the University's traffic expert concluded that the 2012 Plan will have negligible adverse impacts on traffic and parking in the area surrounding the University. In addition, the Transportation Report recommended mitigation measures in response to community concerns about traffic and on-street parking congestion. It also included measures to reduce single-occupancy trips to the Campus, such as encouraging carpools and public transportation. (Ex. 6, 24.)

36. The University has a transportation management program aimed at decreasing automobile trips to and from the Campus. The University will continue to encourage the use of public transportation through the use of a pre-tax payroll deduction for public transportation costs and it will continue the operation of its shuttle between the Metrorail station and various locations on Campus. Additionally, the University will increase parking fees by at least five percent, decrease parking fees for carpools, eliminate all free parking passes for faculty, install 200 new bike racks, and install a Capital BikeShare station, all within one year of approval of the Campus Plan in order to decrease trip generation and parking demand. (Ex. 6, 24; March 22, 2012 Transcript ["Tr."] pp. 87-108.)

The University's traffic engineering expert testified, and the Commission finds, that the 2012 Plan will not generate significant changes to nearby roadway volumes, operations, or geometries, so its impact on traffic will be minimal. (Ex. 6, 24; March 22, 2012 Tr. pp. 87-108.) The Commission finds that the Transportation Demand Management ("TDM") program will enhance the existing successful TDM program and will include significant additions that will further improve mode choice, encourage alternatives to driving, and ensure that traffic and parking impacts of the 2012 Plan will not become objectionable.

37. The Commission also credits the testimony of DDOT at the public hearing that the agency is generally supportive of the 2012 Plan and that the Transportation Report was developed in accordance with DDOT standards and is sufficiently broad, in terms of scope and study area, in its analysis.
38. The University heard comments from the community that there is concern regarding parking during special events on the North Campus. Accordingly, the University developed a parking plan to address events taking place on the North Campus, including the use of staff to direct traffic to alternative parking lots during large events, increased signage regarding events on the North Campus, and providing parking information on the University website regarding alternative parking locations. (Ex. 23, 24.)
39. The Commission finds that approval of the 2012 Plan will not create conditions objectionable to neighboring property because of parking. The 2012 Plan will provide an adequate number of parking spaces for the proposed uses and the TDM program will provide incentives to decrease parking demand. The Commission further finds that DDOT's proposal to reduce parking by 600 spaces is without basis and without direct correlation to the 2012 Plan. Rather, the Commission finds that the proposal to reduce parking by seven spaces by the end of 2012 is sufficient to address parking utilization rates. The Commission will have an opportunity to review the University's parking supply in connection with each further processing application in the future. The Commission further finds that the special events parking plan will reduce on-street parking by patrons of athletic events by encouraging alternative on-campus parking locations.

Number of Students

40. The University will have a maximum of 8,035 students for the term of the 2012 Plan, as calculated by headcount. (Ex. 5, p. 16; Ex. 15, 23, 25.)

Other Objectionable Conditions

41. Number of Faculty/Staff. The 2012 Plan will limit the number of faculty and staff to 2,130. The Commission finds that the proposed facilities and TDM program will sufficiently accommodate this number of faculty and staff, and they will ensure that this number of faculty and staff do not create adverse impacts on surrounding properties. (Ex. 5, p. 17; Ex. 6, 23, 25.)

Office of Planning

42. By report dated March 12, 2012, and by testimony at the public hearing, OP recommended approval of the 2012 Campus Plan subject to conditions. OP reviewed the application under the standards for special exception approval for a campus plan under § 210 as well as the general standards for special exception approval under § 3104 of the Zoning Regulations. OP concluded that the University satisfied the burden of proof but conditioned its recommendation for approval on the following conditions:
- The maximum student enrollment shall be 8,035 students, which includes any person taking at least one class or course on campus;
  - The maximum number of faculty and staff shall be 2,130;
  - The maximum number of parking spaces shall be 1,920; the current total of 1,927 shall be reduced to 1,920 by the end of 2012;
  - The University shall continue to require freshmen and sophomores to live on campus, unless a student lives with a parent or guardian in the DC area;
  - The University shall establish and maintain a community liaison committee to address community concerns related to the University:
    - The committee shall meet at least once per semester, with the first meeting held in the first full semester after approval of the campus plan;
    - The committee meetings shall be open to the public;
    - Committee meetings shall be attended by either the President of the University, a Vice President of the University, or the University's General Counsel;
    - Other members of the committee shall include representatives of ANCs 5A and 5C, owners of property directly abutting the University, and other interested persons;
    - Notice of the meetings shall be given to committee members and ANCs 5A and 5C, and shall be posted in the *Brookland Heartbeat*, or similar circular, and on the CUA Community Website; and
    - Minutes of all meetings shall be taken, maintained and circulated among the members.



- The University shall work with the community to establish a parking plan for events taking place on the North Campus. The plan could include measures such as using parking coordinators to direct people to use the DuFour Center parking lot during events or using a shuttle bus to bring people from the Main Campus to the North Campus;
- Campus shuttles shall only run on public streets or on-campus streets labeled as “Public Access Roads” on page 87 of the Campus Plan, unless specifically requested to serve a person with disabilities; and
- The Campus Plan shall be valid for a period of 15 years.

(Ex. 15.)

**District Department of Transportation**

43. DDOT submitted a report dated March 12, 2012, into the record in support of the application, with conditions. DDOT noted that with the changes proposed in the Campus Plan that the 2012 Plan would yield some modest impacts on the transportation network; however, DDOT believed the impacts could be significantly mitigated. It further noted that many of the changes in the 2012 Plan will create a net positive benefit for the transportation network and neighborhood connectivity. (Ex. 13.)
44. DDOT opined that the University overemphasized the need for parking and recommended the following conditions of approval:
- Parking should be capped at 1,300 spaces based on parking demand and the expected mode split. This would mean an overall reduction in the current parking supply, which is only utilized at 75% peak occupancy;
  - Path upgrades and redesign should be accomplished within three to five years (for upgrades that are not linked to larger capital improvements);
  - Sidewalks (lighting and curb extensions) should be installed or upgraded on Michigan Avenue, John McCormack Road, Taylor Street, Harewood Road, and Hawaii Avenue by CUA as specified in the Campus Master Plan and as noted under “pedestrian facilities” below and lay-bys should be removed at the Columbus School of Law and the Hartke Theater;
  - The temporary surface parking lot should be removed within five years. (The University noted in response that the temporary surface parking lot will be eliminated on the West Campus prior to completing the Hartke Theater expansion project (Ex. 23, Tab C.);
  - The Applicant should address tree loss concerns raised by DDOT’s Urban Forestry Administration;
  - A bikeshare station should be installed by CUA at the campus center; and
  - Annual performance monitoring should include a neighborhood parking analysis.

(Id.)

45. The University provided testimony in response to the DDOT suggestion that 620 spaces be eliminated from the existing Campus. The University noted that the utilization rates cited by DDOT did not accurately reflect the utilization rates of parking on the Main Campus since it included data for the North Campus. The parking lot on North Campus is typically only utilized during sporting events and was significantly underutilized when counts were taken. The University also argued that DDOT's utilization rates also discounted necessary turnover activity with the parking system. (Tr. pp. 48, 89-108.)
46. The University submitted into the record at the public hearing and in its post-hearing statement, alternative conditions for the Commission to consider that provide alternative methods of discouraging driving to the Campus. (Ex. 20; 23, Tab C.)
47. DDOT agreed with and accepted the conditions proposed by the University in its post-hearing submission related to trip generation and parking demand; however, DDOT did not cede the other recommendations made in its report such as path upgrades and or redesign, sidewalks along streets bordering the Campus, and tree loss concerns. (Ex. 13, 23; Tr. pp. 177-181.)

#### **ANC 5A**

48. ANC 5A submitted a letter dated March 19, 2012, into the record stating that it carefully reviewed the proposed Master Plan and that it voted unanimously in favor of the 2012 Plan at a duly noticed, special public meeting on March 19, 2012, with a quorum present. (Ex. 16.)
49. The ANC believes the 2012 Plan will improve the campus and that the changes will benefit the community.
50. The ANC made the following suggestions:
  - The University should establish a process for continued consultation via a Community Advisory Board;
  - The University should improve its communications with the community through the use of a newsletter and web postings;
  - The University should provide specific attention to the parking situation near the North Campus; and
  - The University should demonstrate its commitment to small and local businesses in Ward 5 by seeking and advertising for Ward 5 residents for training and hiring opportunities.(*Id.*)

ANC 5C

51. ANC 5C submitted a letter in support of the 2012 Plan dated March 13, 2012, into the record. The ANC voted unanimously to endorse the Plan proposed by the University. The ANC stated that the 2012 Plan will create a more efficient and sustainable campus that will benefit the community as well as the University over the next 15 years. Finally, the ANC noted that CUA is a welcomed neighbor whose leadership carefully listens and responds to community concerns. (Ex. 14.)
52. The ANC submitted the following considerations for the approval of the Campus Plan:
- In order to continue improvement in on-going communications between CUA and surrounding neighborhoods, CUA should agree to establish a Community Advisory Board (“CAB”), produce regular newsletters, and provide timely notification of all sports, private and special events held at the University. The CAB would operate pursuant the following guidelines:
    - The committee would meet at least once per semester, beginning with the first meeting held in the first full semester after approval of the plan;
    - The committee meetings would be open to the public;
    - Committee meetings would be attended by either the President of the University, a Vice President of the University, or the University’s General Counsel;
    - Other members of the committee would include representatives of ANC 5A and 5C (or their representative counterparts following redistricting), owners of property directly abutting the University, and other interested persons;
    - Notice of the meetings would be given to committee members, ANC 5A and 5C, and shall be posted in area news circulars (i.e., Civic Associations, *Brookland Heartbeat*, etc.) and on the CUA Community Website; and
    - Minutes of all meetings would be taken maintained, and circulated among the members.
  - There is a need to resolve parking concerns that arise in the neighborhood of the DuFour Center from time to time when major events are scheduled as well as events taking place on the North Campus. Such actions may include using parking coordinators to direct traffic to use the DuFour Center parking lot, other designated parking areas, or to use a shuttle bus for transportation between the Main Campus and the North Campus. The University should further agree to work in coordination with ANC 5C12 to establish a special events Parking Zone for the following blocks:
    - 200 block of Hawaii Avenue, N.E;
    - 200 block of Varnum Street, N.E;
    - 200 block of Webster Street, N.E;
    - 440-4500 block of 2nd Street, N.E; and
  - The University should agree to develop priority hiring considerations for D.C. residents.  
(*Id.*)

### CONCLUSIONS OF LAW

1. The Applicant requested special exception approval, pursuant to 11 DCMR §§ 210, 3035, and 3104, of a new campus plan for a 15-year term. The Commission is authorized under the aforementioned provisions to grant a special exception when, in the judgment of the Commission based on a showing through substantial evidence, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. The Commission may make such a determination when it “rationally flows from findings of fact supported by substantial evidence in the record as a whole.” *Georgetown Residents Alliance v. D.C. Bd. of Zoning Adj.*, 802 A.2d 359, 363 (D.C. 2002). A special exception to allow use as a college or university in a residential zone district may be granted subject to the provisions contained in § 210, including that the university use must be “located so that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions,” and that maximum bulk requirements may be increased for specific buildings, subject to restrictions based on the total bulk of all buildings and structures on the campus. (11 DCMR §§ 210.2 – 210.9.)
2. Based on the above Findings of Fact, the Commission concludes that the University has satisfied the burden of proof for special exception approval of the proposed new campus plan in accordance with § 210. The 2012 Plan will provide new development and operations that are not likely to become objectionable because of noise, traffic, number of students, or other objectionable impacts. The 2012 Plan is also not inconsistent with the Comprehensive Plan and advances many of the policies of the Comprehensive Plan. The 2012 Plan addresses the concerns of the community, OP, and DDOT. Finally, in response to community and agency comments, the 2012 Plan will include conditions of approval to mitigate any possible adverse impacts and to avoid creation of additional adverse impacts or objectionable conditions.
3. Based on the above Findings of Fact, the Commission concludes that the 2012 Plan is not likely to become objectionable because of noise. The University is sufficiently buffered from neighboring residential uses and any new development proposed in the 2012 Plan will not create a significant level of noise so as to affect negatively neighboring properties.
4. Based on the above Findings of Fact, the Commission concludes that the 2012 Plan is not likely to become objectionable because of traffic and parking. The University’s Transportation Report complied with both DDOT and industry standards in concluding that the 2012 Plan will not adversely affect the traffic and parking conditions in the vicinity of the Campus. The TDM Program will mitigate the potential for objectionable traffic and parking conditions resulting from the 2012 Plan. Further, DDOT’s report and

testimony supported the Transportation Report's conclusions. The Commission also finds that the alternative conditions proposed by the University are sufficient to discourage single occupancy vehicle trips to the Campus.

5. Based on the above Findings of Fact, the Commission concludes that the 2012 Plan is not likely to become objectionable because of the number of students. The facilities and operations included in the 2012 Plan will mitigate any potential adverse impacts on neighboring properties resulting from the number of students included in the 2012 Plan. The Commission concludes that the proposed cap of 8,035 students will result in conditions not likely to cause objectionable impacts to surrounding properties. The Commission also notes that the proposed enrollment cap is consistent with historic enrollment numbers for the University.
6. In particular, based on the above Findings of Fact, the Commission concludes that the 2012 Plan is not likely to become objectionable because of such factors as number of faculty/staff, on-campus housing, or off-campus student behavior. The 2012 Plan incorporates designs, policies, and procedures that will create conditions such that other potential objectionable impacts are not likely to occur.
7. The Commission accorded the recommendation of OP the "great weight" to which it was entitled pursuant to D.C. Official Code § 6-623.04 (2001). As discussed in this Order, the Commission concurred with the recommendation of OP to grant the University's application, subject to conditions. Indeed, the University agreed with each of OP's proposed conditions.
8. The Commission accorded the issues and concerns raised in the reports from ANCs 5A and 5C the "great weight" to which they are entitled pursuant to D.C. Official Code § 1-309.10(d) (2001). In doing so, the Commission fully credited the unique vantage point that ANCs 5A and 5C hold with respect to the impact of the proposed campus plan on the ANCs' constituents. The Commission notes that the University agreed to the conditions proposed by the affected ANCs.

### **DECISION**

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the 2012-2027 Catholic University of America Campus Plan (the "2012 Plan"), subject to the following conditions:<sup>1</sup>

1. The maximum student enrollment shall be 8,035 students (headcount), which includes any person taking at least one class or course on campus.

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<sup>1</sup> References to Advisory Neighborhood Commissions in these conditions shall mean the affected ANCs as constituted throughout the term of this plan, taking into account any changes due to redistricting.

2. The maximum number of part-time and full-time faculty and staff shall be 2,130 as determined by headcount.
3. The maximum number of parking spaces shall be 1,920; the current total of 1,927 shall be reduced to 1,920 by the end of 2012. The University shall further eliminate at least 45 surface parking spaces on the Main Campus as part of the first development application submission. The University shall only propose new parking facilities that can be offset by elimination of an equal or greater number of parking spaces in other campus parking facilities.
4. The University shall continue to require freshmen and sophomores to live on campus, unless a student lives with a parent or guardian in the DC area.
5. The University shall establish and maintain a community liaison committee to address community concerns related to the University:
  - (a) The committee shall meet at least once per semester, beginning with the first meeting held in the first full semester after approval of the campus plan;
    - The committee shall include either the President, a Vice President, or the General Counsel of the University. Representatives of ANC 5A and ANC 5C and owners of property directly abutting the University may also become members of the committee.
  - (b) The committee meetings shall be open to the public; however, only those members listed in subsection (a) shall have voting power;
  - (c) Notice of the meetings shall be given to committee members, to ANCs 5A and 5C, and to a community newspaper or similar publication, and shall be posted on the CUA Community Website; and
  - (d) Minutes of all meetings shall be taken, maintained, and circulated among the members.
6. The University shall implement the special events parking plan submitted into the record as Tab B of Exhibit 23.
7. Campus shuttles shall only run on public streets or on-campus streets labeled as "Public Access Roads" in the Campus Plan, unless specifically requested to serve a person with disabilities.
8. The University shall implement the following TDM and Sustainability measures no later than one year from the effective date of this Order:

- Continue employee pre-tax payroll deduction for public transit costs;
  - Continue to prohibit freshmen residents from parking vehicles on campus, with exceptions for those students who need a car for medical purposes or are in the Reserve Officers' Training Corps;
  - Continue to operate free CUA shuttle service to the Brookland-CUA Metro station and off-campus housing;
  - Install solar panels above 72 parking spaces in O'Boyle lot (in a manner that will not affect the O'Boyle lot parking supply);
  - Install 200 new bike racks on campus;
  - Install a Capital Bikeshare station on the University's campus;
  - Increase average parking permit fees by at least five percent;
  - Reduce parking fees for carpool drivers;
  - Eliminate all 160 free faculty and staff parking permits, currently provided by various University departments;
  - Offer new carpool incentives and rideshare matching services to campus commuters through Commuter Connections, Zimride, and/or other service providers; and
  - Work with ZipCar to double the number of car-share vehicles provided on Campus.
9. The University shall establish parking permit policies and operational controls to restrict use of the DuFour Center parking lot by general commuters.
10. The University shall monitor its parking supply on an annual basis and report to DDOT on Single Occupancy Vehicle ("SOV") mode share reductions and implementation of TDM measures. Should the analysis indicate that little progress is being made toward matching District mode-share figures<sup>2</sup> for two consecutive years to reduce the University's SOV, the University will work with DDOT in implementing more robust TDM measures which may include, but are not limited to:
- Greater increases in parking permit fees;
  - Limitations on the number of parking permits issued;
  - Targeted access restrictions to commuter parking; and
  - New or increased financial incentives for alternative mode options.
11. The University shall assess the impact of typical University-related commuter parking on neighborhood streets in proximity to the Campus as part of the annual monitoring program and work with DDOT to mitigate impacts.
12. The University shall summarize its event management plan and provide modifications to the plan necessary to balance community concerns with the University's special events operations as part of the annual monitoring program.

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<sup>2</sup> Per Travel to Work data from the annual U.S. Census Bureau's American Community Survey ("ACS").

13. In order to afford DDOT adequate time to assess the impacts of a project, the University shall submit a supplemental TDM and Parking study to DDOT at least 45 days prior to submitting any further processing application that includes parking facilities. The supplemental information will be provided to justify the proposed parking facilities and demonstrate progress in decreasing SOV mode share.
14. The University shall provide a status update on the Campus Plan open space improvements with each further processing application it submits to the Zoning Commission for consideration.
15. The Campus Plan shall be valid for a period of 15 years beginning on the date that this order became final<sup>3</sup> as indicated below.
16. 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.

**VOTE: 5-0-0 (Michael G. Turnbull, Marcie I. Cohen, Anthony J. Hood, Konrad W. Schlater, and Peter G. May to approve).**

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

**Each concurring member approved the issuance of this Order.**

**ATTESTED BY:**

  
\_\_\_\_\_  
**SARA A. BARDIN**  
**OFFICE OF ZONING DIRECTOR**

**FINAL DATE OF ORDER: May 25, 2012**

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<sup>3</sup> In a campus plan proceeding, the Commission follows the rules of the BZA except for § 3218. (See 11 DCMR § 3035.5.) Subsection 3125.6 of the Board's rules provides that "a decision or order shall be and become final upon its filing in the record and service upon the parties."



GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of Zoning



Z.C. CASE NO.: 12-01

MAY 25 2012

As Secretary to the Commission, I hereby certify that on \_\_\_\_\_ copies of this Z.C. Order No. 12-01 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

- |    |  |     |  |
|----|--|-----|--|
| 1. | <i>D.C. Register</i>   | 7.  | Commissioner Ronnie Edwards<br>5C11<br>122 Michigan Ave N.E.<br>Washington, D.C. 20017             |
| 2. | Allison Prince, Esq.<br>Christine Roddy, Esq.<br>Goulston & Storrs<br>1999 K Street, N.W., 5 <sup>th</sup> Floor<br>Washington, D.C. 20006 | 8.  | Commissioner Albrette "Gigi" Ransom<br>5C12<br>219 Webster Street N.E.<br>Washington, D.C. 20011   |
| 3. | ANC 5A<br>1322 Irving Street, N.E.<br>Washington, D.C. 20017   | 9.  | Gottlieb Simon<br>ANC<br>1350 Pennsylvania Avenue, N.W.<br>Washington, D.C. 20004                  |
| 4. | ANC 5C<br>P.O. Box 26183<br>Washington, D.C. 20001   | 10. | Councilmember – Ward 5 (vacant)  |
| 5. | Commissioner Sandi Washington<br>5A01<br>32 Buchanan St N.E.<br>Washington, D.C. 20011   | 11. | DDOT (Martin Parker)   |
| 6. | Commissioner Charita Brent<br>5C10<br>3208 8th Street N.E.<br>Washington, D.C. 20017   | 12. | Melinda Bolling, Acting General Counsel<br>DCRA<br>1100 4th Street, S.W.<br>Washington, D.C. 20024 |
|    |  | 13. | Office of the Attorney General (Alan Bergstein)  |

ATTESTED BY:

A handwritten signature in black ink, appearing to read "S. S. Schellin", is written over a horizontal line.

**Sharon S. Schellin**  
Secretary to the Zoning Commission  
Office of Zoning

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Zoning Commission**



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 12-01A  
Z.C. Case No. 12-01A  
The Catholic University of America  
(Amendment to and Further Processing of an Approved Campus Plan)  
July 12, 2018**

Application of The Catholic University of America (“University”), pursuant to Subtitles X and Z of the District of Columbia Zoning Regulations, to approve a modification of an approved Campus Plan, including modifications to the conditions of the Campus Plan, a further processing application for a surface parking lot and service building, and special exception relief from Subtitle C § 714 for the screening of the surface parking lot.

**HEARING DATES:** June 4, 2018; July 12, 2018

**DECISION DATE:** July 12, 2018 (Bench Decision)

**SUMMARY ORDER**

On March 18, 2018, the University filed this application requesting special exception approval for an amendment to the approved 2012-2027 Catholic University Campus Plan in Z.C. Order No. 12-01 to allow for parking on the North Campus where a field was approved previously and to shift the location of a service building; and a further processing to permit the construction of a new surface parking lot and service building on North Campus, as well as for a dining hall on the Main Campus. The Zoning Commission for the District of Columbia (“Commission”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*. The subject property is located within the jurisdiction of Advisory Neighborhood Commission (“ANC”) 5A, which is automatically a party to this application, and adjacent to ANCs 5B and 5E. Therefore, notice of the public hearing was provided by mail to ANCs 5A, 5B, and 5E, and to owners within 200 feet of the University’s campus. The application was also referred to the Office of Planning (“OP”) and District Department of Transportation (“DDOT”) for review and report.

The Commission first convened for the public hearing on June 4, 2018, and voted to continue the public hearing on July 12, 2018 because proper and timely notice was not provided for all the relief sought in the application. The Commission noted that additional time was necessary to provide notice of the University’s proposed modifications to certain transportation demand management (“TDM”) related conditions of Z.C. Order No. 12-01, and its request for special exception relief from screening requirements for the surface parking lot.

The University also requested a waiver for violating Condition No. 13 of Z.C. Order No. 12-01, which the Commission discussed at the June 4, 2018 proceeding. Condition No. 13 requires the University to “submit a supplemental TDM and Parking study to DDOT at least 45 days prior to submitting any further processing application that includes parking facilities.” The University violated this condition by submitting this application without providing a study to DDOT 45 days before. The Commission reprimanded the University for the violation, and for its failure to comply with all TDM conditions of the Campus Plan. Nevertheless, the Commission did not find it appropriate to deny the waiver request, and did not officially rule on the request on June 4, 2018. However, the Commission did request a written explanation from the University regarding its non-compliance with certain TDM conditions. On June 15, 2018, the University provided a response at Exhibit 32A assuring the Commission that new procedures are being implemented to rectify deficiencies and to ensure compliance with all TDM requirements moving forward.

Also on June, 15, 2018, a notice of further hearing on this application was published in the *D.C. Register*, and mailed to owners within 200 feet of the University’s campus.

At the public hearing on July 12, 2018, the Commission again discussed the University’s request for a waiver of Condition No. 13 of Z.C. Order No. 12-01. The Commission determined it did not have the authority to waive a violation, since that would be an enforcement decision solely within the enforcement authority of the Zoning Administrator. If a Commission’s order includes a condition establishing a pre-requisite to the filing of a future application, the time for seeking a waiver of that pre-requisite is before a violation occurs. The Commission nevertheless exercised its discretion and did not require the refiling of this application. The Commission may not be so generous in the future.

At the hearing, the University stated that the initial application’s proposals to construct a dining facility and relocate the gate on Bates Road, N.E. were both removed from the application.

The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, (“the ANC Act”) effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give “great weight” to the issues and concerns raised in the written report of the affected ANC. To satisfy the 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. ANC 5A voted on a resolution at its regularly scheduled, duly noticed meeting on November 29, 2017, stating that it was satisfied that the proposed work would not have a negative impact on the community and unanimously recommending support for the proposed site improvements. (Exhibit [“Ex.”] 2C.) The resolution cited no issues and concerns. The ANC took a second vote at its regularly scheduled, duly noticed meeting on June 27, 2018, in unanimous support of the application. (July 12, 2018 Transcript [“Tr.”], p. 12.) Because the ANC raised no issues and concerns in its written report, there is nothing for the Commission to give great weight to.

The Commission is required under § 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 (2001)), to give great weight to OP recommendations. OP submitted two written reports recommending approval of the

application. (Ex. 20, 34.) OP's first report requested more information from the University about providing pervious paving, meeting landscaping requirements for the surface parking lot, including a solar/green roof, and using fully shielded lighting fixtures for the parking lot, to which the University responded. (Ex. 32-32C.) At the hearing, OP testified that the University had addressed all of its concerns. The Commission has considered OP's recommendation in support of the application and agrees that approval is appropriate.

DDOT also submitted a written report finding no objection to the application with the conditions that the University update the TDM plan in Condition No. 8 and the performance monitoring plan in Condition No. 10 of Z.C. Order No. 12-01, and fund the restoration of curb lines on Bates Road, N.E. as well as the restoration of greenspace in the public right-of-way where a driveway is closing. (Ex. 21.) The University agreed to DDOT's conditions in Exhibit 32. DDOT testified in support of the application at the hearing noting that it had reached an agreement with the University on all updated condition language.

Since no person requested to participate as a party in this proceeding and the ANC supported the application, a decision by the Commission to grant this application would not be adverse to any party. Therefore, pursuant to Subtitle Z § 604.7, the Commission authorized a summary order in this case and did not require the order to include findings of fact and conclusions of law. 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, as well as the elements of Subtitle C § 714, which are necessary to establish the case for special exception relief from surface parking lot screening requirements.

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 Subtitle C § 714 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.

It is, therefore, **ORDERED** that the application be **GRANTED** and that Condition Nos. 3, 8, 10, and 13 of Z.C. Order No. 12-01 be modified as set forth below and that a new condition of the further processing application, Condition No. 17, be added as a condition of Z.C. Case No. 12-01A. All other conditions of Z.C. Order No. 12-01 remain in full force and effect.

3. The maximum number of parking spaces shall be 1,920; the current total of 1,927 shall be reduced to 1,920 by the end of 2012. The University shall further eliminate at least 45 surface parking spaces on the Main Campus as part of the first development application submission. The University shall only propose new parking facilities that can be offset by elimination of an equal or greater number of parking spaces in other campus parking facilities.
  - a. The University shall further reduce the maximum number of parking spaces to 1,892 by the end of 2022.

8. The University shall implement the following TDM and Sustainability measures, as follows:

a. Measures to be required permanently:

- i. Continue employee pre-tax payroll deduction for public transit costs;
- ii. Continue to prohibit freshmen residents from parking vehicles on campus, with exceptions for those students who need a car for medical purposes or are in the Reserve Officers' Training Corps;
- iii. Continue to operate a free Catholic University shuttle service to the Brookland-CUA Metro station and off-campus housing;
- iv. Maintain solar panels above 72 parking spaces in O'Boyle lot (in a manner that will not affect the O'Boyle lot parking supply);
- v. Reduce parking fees for carpool drivers. Carpool drivers shall be given priority in issuance of permits;
- vi. Assign a staff member the role of implementing the TDM Plan and provide their contact information to DDOT and goDCgo;
- vii. Email students, faculty and staff before the start of each semester to share transportation information and incentives;
- viii. Provide information on the Catholic University website in a prominent and visible location regarding non-automotive travel options; and
- ix. Provide information for non-automotive travel options in student common areas and provide at student orientation.

b. Measures to be completed prior to Fall 2018 semester:

- i. Install 338 new bike spaces on campus (understanding that as of 2018, a total of 274 spaces have already been installed, leaving 64 additional spaces to be installed). At least eight inverted U-racks (16 spaces) shall be located near the Bates lot);
- ii. Increase average parking permit fees per table below:

Table 6: FY 2019 Proposed Parking Permit Fee Schedule

Year	AY 2012	AY 2018	AY 2019	Effective Annual Rate Increase (AY18-AY19)	Total Increase (AY2012-AY2019)
Surface Parking					
Staff/ Faculty	\$425	\$625	\$665	6.4%	56%
Evening	\$245	\$345	\$360	4.3%	47%
Garage (Covered) Parking					
Staff/ Faculty	\$515	\$700	\$700	0.0%	35%
Evening	\$275	\$375	\$375	0.0%	36%
Student Parking					
Commuter Students per year, surface	\$425	\$625	\$665	6.4%	56%
Commuter Students per year, garage	\$515	\$700	\$700	0.0%	36%
Resident Students per year, surface	\$485	\$695	\$735	5.8%	52%
Resident Students per year, garage	\$565	\$770	\$770	0.0%	36%
Evening Students per year, surface	\$245	\$345	\$360	4.3%	47%
Evening Students per year, garage	\$275	\$375	\$375	0.0%	36%

- ;
- iii. Eliminate provision of free faculty and staff parking permits, currently provided by various University departments, for all new faculty and staff hired after May 25, 2012;
  - iv. Work with a carshare company to provide two carshare vehicle spaces in easily accessible locations on campus; and
  - v. Fund and install a Transit Screen in a student common area, such as the Pryzbyla Center;
- c. Measures to be completed prior to Fall 2019 semester:
- i. Fund and install a 19-dock Capital Bikeshare station on the University's campus and provide one year's maintenance and operation; and
- d. Measures to be implemented, as necessary:
- i. Offer new carpool incentives and rideshare matching services to campus commuters through Commuter Connections, and/or other service providers;
  - ii. Increase Campus Shuttle frequency during peak periods to every 10 minutes, if demand is present;
  - iii. Expand Campus Shuttle to provide rides seven days a week and operate at least 30 minutes before/after Metro opens/closes, if demand is present;
  - iv. Offer discounted Capital Bikeshare memberships to students;
  - v. Increase employee participation in pre-tax transit benefits;

- vi. Fund and install Transit Screens in additional student common areas;
  - vii. Provide additional carshare spaces in easily accessible locations on campus;
  - viii. Increase parking permit fees over the increases required pursuant to paragraph (b) of this condition;
  - ix. Impose limitations on the number of parking permits issued;
  - x. Target access restrictions to commuter parking; and
  - xi. Introduce new or increase existing financial incentives for alternative mode options.
10. The University shall monitor its parking supply on an annual basis and report to DDOT on Single Occupancy Vehicle (“SOV”) mode share reductions and implementation of TDM measures, with a goal of meeting a 55% non-automotive mode split or 41% SOV mode share (per goal cited in the 2012 Catholic University Master Plan) for employees and students who commute to campus. The University commits to a performance monitoring plan that requires it to:
- a. Submit annual TDM monitoring reports to DDOT for a minimum of two consecutive years, beginning with the Fall 2018 semester;
  - b. TDM monitoring reports shall include the following at a minimum:
    - i. Student enrollment and number of faculty/staff;
    - ii. Mode splits from Catholic University Commuter Survey for the most recent semester, broken down separately for students and faculty/staff;
    - iii. At a minimum, mode share data shall be collected for the following modes: single occupancy vehicles, carpool/vanpool, walk, bicycle, bus, Metrorail, commuter rail, and other/telework;
    - iv. Vehicle parking space occupancy counts;
    - v. Bicycle parking occupancy counts;
    - vi. Documentation of any changes to TDM program from previous year, including new or innovative policies being implemented not explicitly required in the TDM Plan; and



- vii. A TDM work plan/timeline for the upcoming school year;
  - c. The TDM monitoring report shall include entering and exiting vehicle traffic counts for the morning commuter and school afternoon peak hours every two years, or as specified by DDOT through future coordination or monitoring;
  - d. TDM monitoring reports will no longer be required to be submitted to DDOT when two consecutive annual reports demonstrate that the Applicant is in compliance with the 55% non-automotive travel requirement or Catholic University single-occupant vehicle mode share reaches 41% or lower; and
  - e. If the results of the Catholic University mode share data do not demonstrate at least one percentage point improvement toward either the non-automotive or SOV mode share goals since the previous TDM monitoring report, then the Applicant will be required to adjust and improve the TDM program gaining DDOT approval on these adjustments.
13. In order to afford DDOT adequate time to assess the impacts of a project that includes parking, the University shall meet with DDOT to scope any further processing application that includes parking facilities prior to submitting the application. The University shall submit a Comprehensive Transportation Review (“CTR”) study to DDOT at least 45 days prior to the hearing. The supplemental information will be provided to justify the proposed parking facilities and demonstrate progress in decreasing SOV mode share.
17. Prior to the issuance of the first certificate of occupancy for the service building, the Applicant shall fund and implement restoration of curb lines on Bates Road and restoration of greenspace within public space where the existing driveway is to be closed.

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.

On July 12, 2018, upon the motion of Chairman Hood, as seconded by Vice Chairman Miller, the Commission took **FINAL ACTION** to **APPROVE** this application at the conclusion of its public

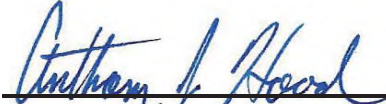


hearing by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11-Z DCMR § 604.9 this Order shall become final and effective upon publication in the *D.C. Register* on September 7, 2018.

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

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

  
\_\_\_\_\_  
**ANTHONY J. HOOD**  
**CHAIRMAN**  
**ZONING COMMISSION**

  
\_\_\_\_\_  
**SARA A. BARDIN**  
**DIRECTOR**  
**OFFICE OF ZONING**

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Zoning Commission**



**ZONING COMMISSION ORDER NO. 12-01B**  
**Z.C. Case No. 12-01B**  
**The Catholic University of America**  
**(Amendment to and Further Processing of an Approved Campus Plan**  
**@ Square 3821, Lot 44 [620 Michigan Avenue, N.E.]**  
**May 20, 2019**

Pursuant to notice, at a public meeting of the Zoning Commission for the District of Columbia (the “Commission”) held on May 20, 2019, the Commission considered the request of the Catholic University of America (the “University”) for an amendment to, and further processing of, the University’s approved 2012-2027 Campus Plan (the “Campus Plan”), approved by Z.C. Order No. 12-01 (the “Original Order”), as amended by Z.C. Order No. 12-01A, for Square 3671, Lots 2, 3, and 802, Square 3821, Lot 44, and Parcel 121/29 (collectively, the “Property”) to adjust the size and location of the dining hall. The Commission reviewed the Application pursuant to the Commission’s Rules of Practice and Procedures, which are codified in Subtitle Z of Title 11 of the District of Columbia Municipal Regulations (the “Zoning Regulations”, to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission APPROVES the Application.

**FINDINGS OF FACT**

**Notice**

1. On March 12, 2019, the University filed an application to amend and further process the Campus Plan to permit the expansion and relocation of the dining hall approved by the Campus Plan (the “Application”).
2. On December 27, 2018, more than 45 days prior to filing the Application as required by Subtitle Z § 302.6, the University mailed a Notice of Intent to file the Application to Advisory Neighborhood Commission (“ANC”) 5A, in which district the Property is located, ANCs 5B and 5E, which districts across a street from the Property and which are deemed with ANC 5A, the ANCs “affected” by the Application pursuant to Subtitle Z §101.8, and the owners of all property within 200 feet of the Property. (Exhibit [“Ex.”] 3C.)
3. The Application included a certificate of service on ANCs 5A, 5B, and 5E, and the Office of Planning (“OP”), as required by Subtitle Z § 302.11. (Ex. 1.)
4. Pursuant to Subtitle Z § 402.1, on March 28, 2019 the Office of Zoning sent notice of the May 20, 2019 public hearing to the University; ANCs 5A, 5B, and 5E, and the Office of

ANCs; the owners of all property within 200 feet of the Property; OP; the District Department of Transportation (“DDOT”); the Department of Consumer & Regulatory Affairs; and the Councilmember for Ward 5, the Chairman of the Council, and the At-Large Councilmembers. Notice of the public hearing was published in the *D.C. Register* on April 5, 2019 (66 DCR 4238). (Ex. 10)

### **The Application**

5. The Property is located in the RA-1 zone.
6. The University amended the plans submitted with the Application in response to comments from OP. (Ex. 3H, 12B, 16A, 19, and 26A1-26A3.)
7. The Application, as amended by the final revised plans (Exhibits 26A1-26A3, the “Final Plans”), proposed to increase the size of the dining hall (the “Dining Hall”) to approximately 36,500 square feet and to relocate the Dining Hall to the site of to-be demolished Magner House (student housing). (Ex. 3)
8. The Dining Hall would be approximately 17,417 square feet larger than the 19,083 square feet of Magner House, which would increase the University’s overall Floor Area Ratio (“FAR”) to 0.30, within the 0.39 FAR approved by the Campus Plan and within the 1.8 FAR maximum for the RA-1 zone pursuant to Subtitle X § 101.5.
9. The only condition of the Original Order impacted by the Application is Condition No. 14 which requires the University to provide a status update on the Campus Plan open space improvements with each further processing application. (Ex. 3 and 3A). The Application stated that the University plans to remove the McMahan surface parking lot on the Main Campus by 2020 and replace it with green, landscaped open space. The Application noted that the conversion was expected to be complete by 2022 and provide 80,000 more square feet of green space. (Ex. 3)

### **Parties**

10. The University and ANCs 5A, 5B, and 5E were automatically parties in this proceeding per Subtitle Z § 403.5. The Commission received no requests for party status.

### **OP Report**

11. OP submitted a report dated May 10, 2019, stating general support for the Application, but requesting additional drawings and other information from the University to fully analyze the compliance of the Application with the campus plan requirements. (Ex. 15.)
12. Following the University submission of updated plans, OP submitted a supplemental report on May 17, 2019, recommending approval of the Application on the condition that the University reduce the design flexibility proposed on Sheet A101C of the Revised Plans. (Ex. 18.)

13. The University subsequently agreed to narrow the requested design flexibility. (May 20, 2019 Public Hearing Transcript [“May 20 Tr.”] at 8-10) and OP testified in support of the Application. (May 20 Tr. at 14.)

#### **ANC Reports**

14. ANC 5A submitted a report dated May 16, 2019, stating that at a properly noticed meeting, with a quorum present, the ANC voted to support the Application without expressing any issues or concerns. (Ex. 20.)
15. ANCs 5B and 5E did not submit a report.

### **CONCLUSIONS OF LAW**

1. The Commission may approve a campus plan, and any amendment and further processing thereof, as a special exception upon determining that the applicant has demonstrated the satisfaction of the requirements of Subtitle X § 101 and Chapter 9. The Commission concludes that the Application meets these requirements as follows:
2. 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.*

The Commission finds that the Dining Hall would be located in the center of the main campus, approximately 800 feet and across the metro and railroad tracks from the nearest off-campus residence. As such, the Commission concludes that the Dining Hall will not result in any objectionable impacts in terms of noise to the neighboring properties.

The Commission notes that while the Dining Hall will likely generate additional deliveries and trash truck trips, it concludes that those vehicles would access the facility from John McCormack Road, and then from either Michigan Avenue or Taylor Street, and would not pass directly through neighborhood streets.

Finally, the Commission concludes that because no parking is proposed for the Dining Hall, and because it will not increase enrollment, it should not generate any additional automobile traffic. The Commission notes that DDOT did not submit a response to the Application despite being served notice and that the Applicant’s testimony attributed this lack of a response to the fact that the Application does not propose any parking and expects to create minimal impacts on traffic. (May 20, Tr. at 12.)

3. Subtitle X § 101.3 - *Any commercial use customarily incidental to a university use in an R, RF, or RA zone, or as an adjunct use to a university building, shall be subject to the following conditions:*
  - (a) *There shall be a demonstrated and necessary relationship between the use and the university functions;*
  - (b) *The total floor area of all commercial uses, including basement or cellar space, shall occupy no more than ten percent (10%) of the gross floor area of the total campus plan floor area; and*

- (c) *The commercial use shall be located so that it will not become objectionable to non-university residential neighbors due to hours of operation, noise, parking, loading, lighting, trash, or other operational characteristics that are not customarily associated with a residential use.*

The Commission finds that the Application does not specify whether any portion of the Dining Hall will be dedicated to commercial uses such as restaurant-style food vendors. However, the Commission concludes that such a use would be incidental to the University use and would not result in any objectionable impacts.

4. *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.*  
The Commission concludes that the Dining Hall will not result in the creation of general commercial activities unrelated to the educational mission of the University.
5. *Subtitle X § 101.5 - The following development standards shall apply to the maximum total density of all buildings and structures on the campus in an R, RF, RA, or RC-1 zone: All R Zones – Maximum Height of 50 feet, and Maximum 1.8 Floor Area Ratio (“FAR”).*  
The Commission finds that the Original Order approved a total FAR of 0.39, within the maximum 1.8 FAR permitted in the RA-1 Zone. The Dining Hall will result in a total FAR of 0.30, consistent with the Original Order.
6. *Subtitle X § 101.6 - Because of permissive increases as applicable to normal bulk requirements in the low-density zones regulated by this title, it is the intent of this subsection to prevent unreasonable campus expansion into improved low-density zones.*  
The Commission concludes that the Application would not result in the expansion of the campus into low-density zones.
7. *Subtitle X § 101.7 - In calculating floor area ratio (FAR), the land area shall not include public streets and alleys, but may include interior private streets and alleys within the campus boundaries.*  
The Commission concludes that the FAR calculation included in the campus plan did not include public streets but did include interior streets and driveways within the campus boundaries.
8. *Subtitle X § 101.8 - As a prerequisite to requesting a further processing for each college or university use, the applicant shall have submitted to the Zoning Commission for its approval a plan for developing the campus as a whole, showing the location, height, and bulk, where appropriate, of all present and proposed improvements including, but not limited to, the following:*
- a) Buildings and parking and loading facilities;*
  - b) Screening, signs, streets, and public utility facilities;*
  - c) Athletic and other recreational facilities; and*
  - d) A description of all activities conducted or to be conducted on the campus, and of the capacity of all present and proposed campus development.*

The Commission concludes that the Final Plans include all the required information. (Ex. 26A-26C.)

9. Subtitle X § 101.9 - *The further processing of specific buildings, structures, and uses within an approved campus plan shall be processed as a special exception unless the campus plan approval was included in an order granting a first-stage planned unit development (PUD) for the campus, in which case the further processing shall be in the form of second-stage planned unit development applications filed consistent with the conditions of the approved campus plan/PUD.*

The Commission concludes that the Application was properly filed as a special exception for a further processing to the original campus plan, as well as an amendment to the campus plan.

10. Subtitle X § 101.10 - *Within a reasonable distance of the college or university campus, and subject to compliance with Subtitle X § 101.2, the Zoning Commission may also permit the interim use of land or improved property with any use that the Zoning Commission may determine is a proper college or university function. The land need not be included in the campus plan. When a major new building that has been proposed in a campus plan is instead moved off-campus, the previously designated site shall not be designated for, or devoted to, a different major new building unless the Zoning Commission has approved an amendment to the campus plan applicable to the site; provided, that for this purpose a major new building is defined as one specifically identified in the campus plan.*

The Commission concludes that the Application is not proposing an interim use of property.

11. Subtitle X § 101.11 - *In reviewing and deciding a campus plan application or new building construction pursuant to a campus plan, the Zoning Commission shall consider, to the extent they are relevant, the policies of the District Elements of the Comprehensive Plan.*

In Z.C. Case No. 12-01, Commission concluded that the Campus Plan was not inconsistent with the policies of the Comprehensive Plan, including the Future Land Use Map, the Generalized Policy Map, the Upper Northeast Area Element, and the Brookland Small Area Plan. The Commission concludes that the Dining Hall will be consistent with the previous approvals and will not change the relationship of the Campus Plan to the Comprehensive Plan. (Ex. 3A.)

12. Subtitle X § 101.12 - *As an integral part of the application requesting approval of new building construction pursuant to a campus plan, the college or university shall certify and document that the proposed building or amendment is within the FAR limit for the campus as a whole, based upon the computation included in the most recently approved campus plan and the FARs of any other buildings constructed or demolished since the campus plan was approved.*

The Commission concludes that the new total FAR of 0.30 after the completion of the Dining Hall will be within the maximum 0.39 FAR permitted under the Campus Plan.

13. Subtitle X § 101.13 - *Pursuant to Subtitle Z § 405.1, as soon as the application is accepted, the Office of Zoning shall refer the application to the Office of Planning, the Department*



of Transportation, and the Department of Energy and Environment for review and written reports.

The Commission concludes that the Application was properly referred to all relevant District agencies. The Commission notes that the Office of Planning was the only agency to provide a report on the Application.

14. Subtitle X § 101.14<sup>1</sup> - *Approval of a campus plan shall be based on the determination by the Zoning 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.*

The Commission concludes that the Dining Hall will be consistent with the scale of the existing buildings on the campus and the Campus Plan generally. The Commission also concludes that due to the Dining Hall's central location, lack of parking, and minimal traffic and loading impacts, it is unlikely to result in adverse impacts to neighboring properties.

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

15. 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.); Subtitle Y § 405.8); *Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)).
16. The Commission finds OP’s recommendation that the Commission approve the Application persuasive and concurred in that judgment.

#### **“Great Weight” to the Written Report of the ANCs**

17. 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 Y § 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).”
18. The Commission finds the support of ANC 5A for the Application persuasive and concurs in that judgment. The Commission has no issues or concerns to which it can give great

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<sup>1</sup> Subtitle X § 101.14 encapsulates the general Special Exception criteria of Subtitle X § 901.2.

weight from either ANC 5B or ANC 5E, as these ANCs did not submit any report in this case despite having received notice of the Application.

**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 Applicant's request to amend and further process the Campus Plan for the Catholic University as originally approved by Z.C. Order No. 12-01, as amended by Z.C. Order No. 12-01A. The conditions in Z.C. Order No. 12-01, as amended by Z.C. Order No. 12-01A, remain in full force and effect together with the following new Condition No. 18:

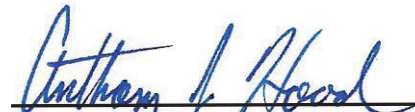
- 18. The Dining Hall shall be developed in accordance with the plans prepared by Perkins Eastman, dated July 19, 2019, and marked as Exhibits 26A through 26C of the record.


**VOTE (May 20, 2019): 5-0-0** (Robert E. Miller, Peter A. Shapiro, Anthony J. Hood, Peter G. May, and Michael G. Turnbull to **APPROVE**).

In accordance with the provisions of Subtitle Z § 604.9, this order 12-01B shall become final and effective upon publication in the *DC Register*; that is, on January 3, 2020.

**BY 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**

  
\_\_\_\_\_  
**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.