

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
Z.C. ORDER NO. 12-01C
Z.C. Case No. 12-01C
The Catholic University of America
(Amendment to and Further Processing of an Approved Campus Plan)
July 27, 2020

Pursuant to notice, at its July 27, 2020 public meeting¹, the Zoning Commission for the District of Columbia (the “Commission”) deliberated upon the application (the “Application”) of the Catholic University of America (the “University”) for the following relief under the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, Zoning Regulations of 2016, to which all subsequent citations refer unless otherwise specified):

- An amendment of the University’s 2012-2027 Campus Plan (the “Campus Plan”) approved by Z.C. Order No. 12-01, as amended by Z.C. Order Nos. 12-01A and 12-01B (collectively, the “Order”), pursuant to Subtitle X §§ 101.1, 101.14, and 101.16; and
- A further processing pursuant to Subtitle X § 101.9,

for Lot 44 in Square 3821 (the “Property”) in the RA-1 zone to construct a new residence hall. The Commission reviewed the Application pursuant to the Commission’s Rules of Practice and Procedures, which are codified in Subtitle Z. For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

I. BACKGROUND

PARTIES

1. The following were automatically parties in this proceeding pursuant to Subtitle Z § 403.5:
 - The Applicant;
 - Advisory Neighborhood Commission (“ANC”) 5A, in which district the Property is located and so an “affected” ANC pursuant to Subtitle Z § 101.8; and
 - ANCs 5B and 5E, which districts are across a street from the Property, and so also “affected” ANCs pursuant to Subtitle Z § 101.8.
2. The Commission received no requests for party status.

PRIOR APPROVALS

3. Pursuant to Z.C. Order No. 12-01, effective May 25, 2012, the Commission approved the University’s Campus Plan for 2012-2027.

¹ The Commission heard the case at its July 20, 2020 public hearing; and approved the Application at its July 27, 2020 public meeting.

4. Pursuant to Z.C. Order No. 12-01A, effective September 7, 2018, the Commission approved:
 - A modification to the Campus Plan, including a modification of Condition Nos. 3, 8, 10, and 13 of the Original Order, pursuant to Subtitle X § 101.16;
 - A further processing pursuant to Subtitle X § 101.9; and
 - A special exception from the surface parking lot screening requirements of Subtitle C § 714;to permit the construction of a service building and surface parking lot on the North Campus.

5. Pursuant to Z.C. Order No. 12-01B, effective January 3, 2020, the Commission approved:
 - A modification to the Campus Plan, including adding a new Condition No. 18 to the Original Order, pursuant to Subtitle X § 101.16; and
 - A further processing pursuant to Subtitle X § 101.9;to permit the relocation of the University’s dining hall and an increase in its size.

NOTICE

6. Pursuant to Subtitle Z §§ 302.6 and 302.7, the University mailed a Notice of Intent to file the Application (Exhibit [“Ex.”] 2E), on February 21, 2020, more than 45 days prior to filing the Application, to:
 - ANCs 5A, 5B, and 5E; and
 - The owners of all property within 200 feet of the Property.

7. Pursuant to Subtitle Z § 402.1, the Office of Zoning (“OZ”) sent notice on May 27, 2020 of the July 20, 2020 public hearing (Ex. 4, 5) to:
 - The University;
 - ANCs 5A, 5B, and 5E, and the Office of ANCs;
 - ANC 5A04 Single Member District Commissioner, in whose district the Property is located;
 - The Office of Planning (“OP”);
 - The District Department of Transportation (“DDOT”);
 - The Department of Consumer and Regulatory Affairs;
 - The Councilmember for Ward 5, in whose district the Property is located;
 - The Chairman of the Council, and the At-Large Councilmembers; and
 - The owners of all property within 200 feet of the Property.

8. OZ also published the notice of the July 20, 2020 public hearing in the June 5, 2020 *D.C. Register* (67 DCR 6741), as well as on the Commission’s calendar on the OZ website. (Ex. 3, 4.)

THE PROPERTY

9. The Property is located on the northeast corner of the University’s main campus and bounded:
 - To the north by the Taylor Street, N.E. overpass;

- To the east by John McCormack Road, N.E. and the Metrorail tracks;
 - To the south by the University's Main Campus; and
 - To the west by the University's Main Campus, including the existing Opus Hall student residence. (Ex. 2A.)
10. The Property does not abut any property that is devoted to residential uses. (Ex. 2A.)
 11. The Property is currently vacant with a portion devoted to a surface parking lot. (Ex. 2A.)
 12. The Property is designated on the Campus Plan for a new four-story residence hall of 64,000 square feet with a single-story chapel of 2,500 square feet attached on the residence hall's southern end (the "N1/N2 Hall/Chapel") (Proposed Buildings N1 and N2 on pp. 66-67 in Ex. 25B1 of Z.C. Case No. 12-01).
 13. The Property is located in the RA-1 zone.

II. THE APPLICATION

14. The Application proposed to remove the existing surface parking lot and significantly enlarge the size of the N1/N2 Hall/Chapel approved by the Campus Plan and relocate the chapel to the center of the west façade. The Application's proposed enlarged N1/N2 Hall/Chapel would:
 - House 366 students;
 - Have a height of approximately 66 feet, 10 inches,² measured at the center of the east façade that is setback 21 feet from the property line abutting John McCormack Road, N.E.;
 - Have a gross floor area of 103,829 square feet; and
 - Remain within the 0.39 FAR allowed under the Campus Plan and the maximum 1.8 FAR permitted in the RA-1 zone by Subtitle X § 101.5. (Ex. 2A, 2H1-2H2, Transcript of the July 20, 2020 public hearing ["Tr."] at 8.)

RELIEF REQUESTED

15. To construct the proposed enlarged N1/N2 Hall/Chapel, the Application requested the following relief as a special exception pursuant to Subtitle X §§ 101.9 and 901.2 for:
 - An amendment of the Campus Plan to authorize:
 - The enlargement of the N1/N2 Hall/Chapel by approximately 37,329 square feet; and
 - The relocation of the chapel from the south end to the center of the west façade of the N1/N2 Hall/Chapel; and
 - A further processing to authorize the enlarged N1/N2 Hall/Chapel with the relocated chapel.

² Sheet ZA0300 of Ex. 2H2 depicts the height measurement in the "(1) John McCormack Road Section" as 66 feet, 9 and 59/128 inches.

JUSTIFICATION FOR RELIEF

16. The Application asserted that it satisfied the requirements for a special exception for a further processing of a campus plan because:
- It met the special exception standards of Subtitle X § 901.2, for both the amendments to the Campus Plan and the further processing thereof pursuant to Subtitle X §§ 101.1, 101.9, 101.14, 101.16 because the enlarged N1/N2 Hall/Chapel would not be have an adverse effect on neighboring properties since:
 - The Property does not abut any residential property; and
 - The N1/N2 Hall/Chapel will not increase the current noise levels on campus as the student enrolled population will not be changed;
 - The N1/N2 Hall/Chapel would comply with the 1.8 FAR limit for campuses in the RA-1 zone established by Subtitle X §§ 101.5 and 101.12;
 - The N1/N2 Hall/Chapel would generally be consistent with the parameters of the Campus Plan, although it is larger than what had been approved by the Campus Plan and would not alter the Campus Plan's compliance with the requirements of Subtitle X § 101; and
 - The Application satisfied the conditions of the Order, including the status of open space improvements required by Condition No. 14 of the Order. (Ex. 10, 10A.)
17. At the July 20, 2020 public hearing, the University presented the Application, including the status of open space improvements on the campus, to the Commission with testimony from:
- Debra Nauta-Rodgriuez on behalf of the University; and
 - Matt Bell on behalf of Perkins Eastman, the architect.

III. RESPONSES TO THE APPLICATION

OP

18. OP submitted a July 10, 2020, report (Ex. 11, the "OP Report") that:
- Concluded that the Application meets the applicable standards for amendments and further processing of an approved Campus Plan pursuant to Subtitle X § 101 because the enlarged N1/N2 Hall/Chapel would:
 - Not be inconsistent with the approved Campus Plan because it is retaining the approved residence hall and chapel, which creates a visual center to the residential courtyard in concert with the Campus Plan's principle of residential clusters centered on chapels; and
 - Have no significant impacts on the surrounding neighborhoods because:
 - The increased size would not be out of scale with nearby buildings;
 - The N1/N2 Hall/Chapel had no exterior balconies;
 - The N1/N2 Hall/Chapel focused student activity in the internal courtyard; and
 - No new parking is proposed; and
 - Recommended approval of the Application.
19. OP testified in support of the Application. (Tr. at 32-33.)

ANC

20. None of the affected ANCs – 5A, 5B, and 5E – submitted a report in response to the Application.
21. Although ANC 5A did not submit a written response to the Application, the University stated that ANC 5A:
 - Had considered the University’s presentation of the Application at its February 26, 2020 public meeting;
 - Had voted to support the Application at its June 2020 public meeting; and
 - Intended to submit a written report to the Commission. (Ex. 2A, Tr. At 8, 13, 19.)

CONCLUSIONS OF LAW

1. The Commission is authorized under the Zoning Act, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2018 Repl.)) to approve a Campus Plan consistent with the requirements set forth in Subtitle X §§ 101 and 102 and Subtitle Z § 302.
2. Pursuant to Subtitle X § 101, the Commission shall evaluate an application for an amendment of a campus plan and further processing as a special exception:

Education use by a college or university shall be permitted as a special exception subject to review and approval by the Zoning Commission under Subtitle X, Chapter 9 after its determination that the use meets the applicable standards and conditions of this chapter. (Subtitle X § 101.1.)

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. (Subtitle X § 101.14.)
3. Section 8 of the Zoning Act (*see also* Subtitle X § 901.2) establishes that the Commission may grant special exception upon its determination that the special exception:
 - *Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map,*
 - *Will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, and*
 - *Complies with the special conditions specified in the Zoning Regulations.*
4. For the special exception requested by the Application, the “specific conditions” are those of Subtitle X § 101, specifically:
 - *Application requirements – sufficiency of plans and FAR certification; (Subtitle X §§ 101.8, 101.12)*
 - *Limits on height and density of all buildings in a campus in an R, RF, RA, or RC-1 zone; (Subtitle X §§ 101.5 - 101.7, 101.12)*

- *Limits on commercial activities; (Subtitle X §§ 101.3, 101.4)*
 - *Limits on college/university uses off-campus; (Subtitle X § 101.10)*
 - *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; and (Subtitle X § 101.2)*
 - *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. (Subtitle X § 101.11.)*
5. Relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the relief requested are met. In reviewing an application for special exception relief, the Board’s discretion is limited to determining whether the proposed exception satisfies the requirements of the regulations and “if the applicant meets its burden, the Board ordinarily must grant the application.” (*First Washington Baptist Church v. D.C. Bd. of Zoning Adjustment*, 423 A.2d 695, 701 (D.C. 1981) (quoting *Stewart v. D.C. Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973))).

SPECIFIC SPECIAL EXCEPTION REQUIREMENTS

6. Based on the case record and the Findings of Facts above, the Commission concludes that the Application satisfied the specific special exception requirements for the requested amendments to the Campus Plan and the further processing thereof as follows.
7. The Commission concludes that the Application satisfied the Order’s conditions because:
- Condition No. 13, requiring the University to submit a TDM and Parking study to DDOT at least 45 days prior to a further processing application, because the Application did not include any parking facility; and
 - Condition No. 14, requiring the University to provide a status update of the open space improvements on the campus with each further processing application because the University provided plans (Ex. 10, 10A) depicting the open space around the N1/N2 Hall/Chapel and presented testimony based on these plans. (Tr. 12-19.)
8. The Commission concludes that the Application included the site plan and FAR certification for the enlarged N1/N2 Hall/Chapel to satisfy the requirements of Subtitle X §§ 101.5-101.7, and 101.12.
9. The Commission concludes that the enlarged N1/N2 Hall/Chapel complies with the height limits for a building in a campus in the RA-1 zone because:
- Subtitle F § 202.3 authorizes an institutional building to exceed the maximum height allowed in an RA zone proportionate to the institutional building’s setback from all lot lines;
 - Subtitle X § 101.5 authorizes a 50-foot maximum height for all buildings on a campus in the RA-1 zone; and

- The extra 11 feet, 10 inch height of the N1/N2 Hall/Chapel over this 50-foot maximum is less than the 21-foot setback of the N1/N2 Hall/Chapel from John McCormack Road, N.E.
10. The Commission concludes that the Application satisfied the limits on commercial uses for a college or university of Subtitle X §§ 101.3-101.4 because the amendments to the Campus Plan do not propose any commercial uses incidental to a university use as described in these subsections.
 11. The Commission concludes that the Application satisfied the limits of college/university uses off-campus of Subtitle X § 101.10 because the amendments to the Campus Plan do not propose any off-campus interim or permanent uses as described in this subsection.
 12. The Commission concludes, pursuant to Subtitle X § 101.11, that the requested Campus Plan amendments and further processing are not inconsistent with the relevant District Elements of the Comprehensive Plan because the proposed residence/chapel use was approved in the Campus Plan that the Commission approved as compliant with this subsection.
 13. The Commission concludes that the Application satisfies Subtitle X § 101.2's requirement that the Campus Plan locate the educational uses to not be objectionable to neighboring properties because:
 - The proposed increase in the N1/N2 Hall/Chapel gross floor area of approximately 37,000 square feet is minor in the context of the Campus Plan;
 - The Property does not abut any residential property; and
 - The N1/N2 Hall/Chapel will not increase the current noise levels on campus as the student enrolled population will not be changed.

GENERAL SPECIAL EXCEPTION STANDARDS (SUBTITLE X § 101.1, 101.14, 901.2)

14. Based on the case record and the Findings of Facts above, the Commission concludes that the Application satisfies the general special exception standards for the requested amendments to the Campus Plan and the further processing thereof because:
 - The requested Campus Plan amendments and further processing are in harmony with the purpose and intent of the Zoning Regulations pursuant to Subtitle X § 901.2(a) because the enlarged N1/N2 Hall/Chapel do not change the uses authorized by the Campus Plan that the Commission approved as harmonious with the Zoning Regulation's purpose and intent and the enlarged N1/N2 Hall/Chapel comply with the height and bulk standards for university uses in the RA-1 zone as detailed above; and
 - The requested Campus Plan amendments and further processing will not tend to affect adversely the use of neighboring property pursuant to Subtitle X § 901.2(b) as discussed above.

“GREAT WEIGHT” TO THE RECOMMENDATIONS OF OP

15. The Commission must give “great weight” to the recommendations of OP pursuant to § 13(d) of the Office of Zoning Independence Act of 1990, effective September 20, 1990

(D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001)) and Subtitle Z § 405.8. (*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 ANC

17. The Commission must give “great weight” to the issues and concerns raised in a written report of an 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 Z § 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. Since none of the affected ANCs – 5A, 5B, and 5E – submitted a written response to the Application, there is nothing to which the Commission can give “great weight.”

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the University has satisfied its burden of proof and therefore **APPROVES** the Application's request for:

- An amendment, pursuant to Subtitle X §§ 101.1, 101.14, and 101.16, to the Catholic University's 2012-2027 Campus Plan approved by Z.C. Order No. 12-01, as modified by Z.C. Order Nos. 12-01A and 12-01B (collectively the “Order”); and
 - A further processing approval, pursuant to Subtitle X § 101.9,
- to authorize the construction of a new residence hall with chapel (the “N1/N2 Hall/Chapel”). The conditions of the Order remain in full force and effect, except that Condition No. 18 shall be amended and a new Condition No. 19 shall be added, to read as follows (text to be added shown in **bold and underscore**; text to be deleted shown in ~~**bold and strike out**~~):

18. The **Campus Plan shall be amended to authorize the construction of 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 **in Z.C. Case No. 12-01B.**
19. **The Campus Plan shall be amended to authorize the construction of the N1/N2 Hall/Chapel in accordance with the plans prepared by Perkins Eastman, dated May 7, 2020, and marked as Exhibits 2H1 and 2H2 of the record in Z.C. Case No. 12-01C as follows:**


- With a height of approximately 66 feet, 10 inches;
- With a gross floor area of approximately 103,829 square feet; and
- Subject to the University filing an application for a building permit to construct the N1/N2 Hall/Chapel within two years after the effective date of this Order pursuant to Subtitle Z § 702.2, with construction to begin within three years after the effective date of this Order pursuant to Subtitle Z § 702.3.


VOTE (July 27, 2020): **5-0-0** (Peter A. Shapiro, Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to **APPROVE**)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 12-01C shall become final and effective upon publication in the *DC Register*; that is, on May 14, 2021.

BY 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

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.