

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



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 11-15I**  
**Z.C. Case No. 11-15I**  
**Howard University**  
**(Minor Modification to Approved Campus Plan**  
**@ 2225 Georgia Avenue, N.W. [Lot 36 in Square 3065])**  
**September 23, 2019**

Pursuant to notice, the Zoning Commission for the District of Columbia (the “Commission”) held public meetings on September 9 and 23, 2019 to consider the application (the “Application”) of Howard University (“Howard”) for a Minor Modification to the Campus Plan approved by Z.C. Order No. 11-15, as modified by Z.C. Order No. 11-15G, for Lot 36 in Square 3065, with a street address of 2225 Georgia Avenue, N.W. (the “Howard Center”). 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 (Zoning Regulations of 2016, 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**

**Background**

1. In Z.C. Case No. 11-15, the Commission approved Howard’s Campus Plan (the “Approved Campus Plan”). The Approved Campus Plan designated the Howard Center for academic space, support facilities, public safety, and ground level retail use.
2. In Z.C. Case Nos. 11-15A through 11-15F, and 11-15H, the Commission approved various amendments and further processing of the Approved Campus Plan. None of these cases specifically involved changes to the Howard Center<sup>1</sup>.
3. In Z.C. Case No. 11-15G, the Commission approved a Modification of Consequence to add “dormitory/residential” to the designated uses for the Howard Center.
4. In Z.C. Case No. 11-15G, Howard submitted a graphic showing conferencing space on the third and fourth floors of the Howard Center (Exhibit [“Ex.”] 3B). Howard noted that this graphic was included in materials used in community meetings and was not intended to serve as the approved plans for the requested modification.

---

<sup>1</sup> Z.C. Case No. 11-15E approved special exceptions to allow interim university uses at 1851 9<sup>th</sup> Street, N.W. in order to relocate staff from the Howard Center due to environmental issues.

5. Howard stated that the conferencing space use category was not meant to be exclusive and further, that Howard's need for more dormitory space has necessitated that Howard use the entirety of the third and fourth floors of the Howard Center for dormitory use.
6. Howard has provided evidence that permitting staff at the Department of Consumer and Regulatory Affairs have interpreted the graphic as the approved plans and will not approve dormitory or residential uses on the third and fourth floors of the Howard Center without additional clarification from the Commission. (Ex. 3, 3C.)

### **Parties**

7. The only party to the Z.C Case No. 11-15 other than Howard was Advisory Neighborhood Commission ("ANC") 1B, the "affected" ANC pursuant to Subtitle Z § 101.8.

### **The Application**

8. On July 24, 2019, Howard filed the Application requesting a Minor Modification to authorize a modification of Z.C. Order No. 11-15G to clarify that any combination of the approved uses for the building can be distributed throughout the Howard Center, including dormitory/residential uses on the third and fourth floors.
9. Howard provided evidence that on July 24, 2019 it served the Application on ANC 1B, and the Office of Planning ("OP"), as attested by the Certificate of Service submitted with the Application. (Ex. 3.)
10. OP submitted a report dated August 30, 2019 recommending a slight addition to Howard's proposed language to note that retail uses are required on the ground floor fronting Georgia Avenue in order to be consistent with the Campus Plan (the "OP Report"). (Ex. 6.) Howard agreed to this additional language. (Ex. 8.)
11. ANC 1B did not file a written report to the record.

### **CONCLUSIONS OF LAW**

1. Subtitle Z § 703.1 authorizes the Commission, in the interest of efficiency, to make Minor Modifications to final orders and plans without a public hearing.
2. Subtitle Z § 703.2 defines Minor Modifications as "modifications that do not change the material facts upon which the Commission based its original approval of the application or petition".
3. The Commission deferred action on the Application from its September 9, 2019 public meeting to its September 23, 2019 public meeting to allow the ANC and Howard to file additional submissions.
4. The Commission concludes that Howard satisfied the requirement of Subtitle Z § 703.13 to serve the Application on all parties to the original proceeding, in this case ANC 1B.

5. The Commission concludes that the Application qualifies as a Minor Modification within the meaning of Subtitle Z § 703.2, as a request for a modification that does not change the material facts upon which the Commission based its original approval, and therefore can be granted without a public hearing pursuant to Subtitle Z § 703.17(b).
6. The Commission finds that the modification proposed by the Application is consistent with the Approved Campus Plan because the proposed change to the Decision section does not change any of the material facts upon which the Commission based its original approval.

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

7. D.C. Official Code § 6-623.04 (2018 Repl.) and Subtitle Z § 405.8 require the Commission to give “great weight” to the recommendations contained in the OP Report.
8. The Commission notes OP’s lack of objection to the Application being considered as a Minor Modification and finds persuasive OP’s recommendation that the Commission approve the Application and concurred in that judgment. The Commission adopted the additional language proposed by OP.

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

9. D.C. Official Code § 1-309.10(d)(3)(A) (2012 Repl.) and Subtitle Z § 406.2 require the Commission to give “great weight” to the issues and concerns contained in the written report of an affected ANC. To satisfy this great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. 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).
10. As ANC 1B did not submit a written report, 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 Howard has satisfied its burden of proof and therefore **APPROVES** the Application’s request for a Minor Modification to Z.C. Order No. 11-15G.


Z.C. Order No. 11-15, as amended by Z.C. Order Nos. 11-15A through 11-15H, and all conditions therein remain unchanged and in effect, except that a new third sentence is added and the second sentence in the Decision paragraph of Z.C. Order No. 11-15G is hereby revised to read as follows (deletions shown in **bold** and ~~strikethrough~~ text; additions shown in **bold** and underlined text):


The conditions in Z.C. Order No. 11-15 and subsequent amendments remain unchanged ~~but, except that~~ the future land use designation for the Property included in the Campus Plan, including in the Campus Development Plan included therein, ~~are is~~ amended to include dormitory/residential use as a future use for the

Property. The Commission's approval is intended to permit any combination of the designated uses (retail, support facilities including conference and hospitality, and residential/dormitory uses) throughout the property, except that the ground floor along the Georgia Avenue, NW frontage must be devoted exclusively to retail uses.

**VOTE (September 23, 2019):** **5-0-0** (Michael G. Turnbull (m), Vice Chairman Robert E. Miller (s), Chairman Anthony J. Hood, Peter A. Shapiro, and Peter G. May to **APPROVE**).

In accordance with the provisions of Subtitle Z § 604.9 of the Zoning Regulations, this Order No. 11-15I shall become final and effective upon publication in the *DC Register*; that is, on October 25, 2019.

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