

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 08-32A

Z.C. Case No. 08-32A

(Howard University – Amendment to Approved Central Campus Plan and Application for Further Processing)

May 20, 2010

Application No. 08-32A of President and Trustees of Howard University (the “Applicant”), pursuant to 11 DCMR §§ 3104.1 and 210 of the Zoning Regulations, to amend the Campus Plan approved in 1998 to permit the construction of a chiller plant accessory to the Howard University Hospital (“Hospital”) and for special exception approval for the further processing of the approved Campus Plan to permit the construction of the accessory structure, which would be located on the main campus adjacent to the Hospital at premises 2041 Georgia Avenue, N.W. (Lot 807, Square 3075).

HEARING DATE: May 20, 2010

DECISION DATE: May 20, 2010 (Bench Decision)

SUMMARY ORDER

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

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*, by mail to Advisory Neighborhood Commissions (“ANC”) 1B and 5C, and to owners of property within 200 feet of the site. The campus of Howard University is located within the jurisdiction of ANCs 1B and 5C.

As directed by 11 DCMR § 3035.4, the Commission required the Applicant to satisfy the burden of proving the elements of §§ 210 and 3104 of the Zoning Regulations, which are necessary to establish the case for a special exception for a college or university.

As of the Applicant’s 1998 Campus Plan, the overall floor area ratio (“FAR”) for the campus is well within the permitted boundaries under the Zoning Regulations. Pursuant to paragraph 18 of Board of Zoning Adjustment (“BZA”) Order No. 16330, a maximum 2.75 FAR is permitted for development of the Applicant’s entire campus. After the demolition of the Center for Hypertension, Center for Sickle Cell Disease, Bethune Hall, the Physical Education Annex, and the new construction of the Lois Stokes Medical Library, the existing density of the Howard Campus is 1.34 FAR. The construction of the proposed chiller plant will add approximately 4,500 square feet with no significant impact on the overall 1.34 FAR of the entire campus.

The D.C. Office of Planning (“OP”) submitted a report dated May 14, 2010 stating that the application is in conformance with the provisions of §§ 210 and 3104 and recommended approval of the application as submitted.

The Commission received reports from the two ANCs affected by the application, ANCs 5C and ANC 1B. Both ANCs were considered affected ANCs and given party status in the 1998 Campus Plan case. ANC 5C submitted a report in support of the application, dated April 2, 2010. ANC 1B, in a report dated April 5, 2010, stated that it voted to support the application with conditions. The conditions were: (1) that the traffic generated during the construction phase enter and exit the site through Georgia Avenue, (2) that no objectionable noise come from the completed plant, and (3) that the Applicant has a regular dialogue with the ANC and the community on the University’s campus plan and its amendment process.

Additional letters of support were submitted into the record, including one from Bloomingdale Civic Association, Inc., dated April 5, 2010, one from the LeDroit Park Civic Association, dated April 2, 2010, and another from the Pleasant Plains Civic Association, dated April 2, 2010.

Based upon the record before the Commission, the Commission concludes that the Applicant has met the burden of proof pursuant to 11 DCMR §§ 210 and 3104 and that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Commission further concludes that granting the requested relief will not tend to adversely affect the use of neighboring property in accordance with the Zoning Regulations and Map. The Commission notes and gives great weight to OP’s recommendation that the application satisfies the requirements of §§ 210 and 3104. The Commission notes, and gives great weight to, the recommendations of ANCs 1B and 5C to amend the campus plan and support the construction of the chiller plant.

The Commission considered the conditions requested by ANC 1B in its report. The Commission declines to include the requested condition regarding construction traffic because a special exception only concerns the impact of a use or structure after it is established. The impact of construction is the purview of the construction codes. The Commission believes that the location of the chiller plant, the structure containing the chillers, and the sound attenuating devices contained within the structure, are adequate to prevent objectionable noise. The Commission declines to include the requested condition requiring the Applicant to have a regular dialogue with the community regarding future campus plan amendments because it believes that the Applicant satisfied its obligations to communicate with the community for this application, and it will consider the Applicant’s communications with the community regarding subsequent campus plan amendments when it considers those applications.

It is, therefore, **ORDERED** that the further processing application be **GRANTED**. It is further **ORDERED** that the amendment to the 1998 Campus Plan be **GRANTED** subject to the conditions previously delineated in BZA Order No. 16330.

Pursuant to 11 DCMR § 3100.5, the Commission has determined to waive the requirement of 11 DCMR § 3125.3 that findings of fact and conclusions of law accompany the order of the

Commission. The waiver will not prejudice the rights of any party and is appropriate in this case.

VOTE: 3-0-2 (Anthony J. Hood, Peter G. May, and Konrad W. Schlater to approve; Michael G. Turnbull, not present, not voting; the third Mayoral appointee position vacant, not voting).

BY ORDER OF THE D.C. ZONING COMMISSION

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

ATTESTED BY:


Jamison L. Weinbaum
Director, Office of Zoning

FINAL DATE OF ORDER: August 6, 2010

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3205, TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE COMMISSION ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED.

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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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



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AUG 4 2010

As Secretary to the Commission, I hereby certify that on _____ copies of this Z.C. Order No. 08-32A were mailed first class, postage prepaid or sent by inter-office government mail to the following:

1. *D.C. Register*
2. Cynthia Giordano, Esq.
Arnold & Porter LLP
555 12th Street, N.W.
Washington, D.C. 20004
3. ANC 1B
2000 14th Street, N.W. #100B
Washington, DC 20009
4. ANC 5C
P.O. Box 77761
Washington, DC 20013
5. Commissioner E. Gail Anderson Holness
ANC/SMD 1B11
920 Euclid Street, N.W.
Washington, D.C. 20001
6. Commissioner Eddie Ferrer
ANC/SMD 1B10
610 Columbia Road, N.W.
Washington, D.C. 20001
7. Commissioner Myla Moss
ANC/SMD 1B01
335 U Street, N.W.
Washington, D.C. 20001
8. Commissioner Thomas Smith
ANC/SMD 1B09
736 Fairmont Street, N.W.
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9. Commissioner John Salatti
ANC/SMD 5C04
131 U Street, N.W.
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10. Commissioner Barrie Daneker
ANC/SMD 5C07
26 Bryant Street, N.W.
Washington, D.C. 20001
11. Gottlieb Simon
ANC
1350 Pennsylvania Ave., N.W.
Washington, D.C. 20004
12. Councilmember Jim Graham
13. Councilmember Harry Thomas, Jr.
14. DDOT (Karina Ricks)
15. Melinda Bolling, Acting General Counsel
DCRA
1100 4th Street, S.W.
Washington, D.C. 20024
16. Office of the Attorney General
(Alan Bergstein)
17. Pleasant Plains Association
533 Gresham Place, N.W.
Washington, D.C. 20001
18. LeDroit Park Civic Association
P.O. Box 135
Washington, D.C. 20044
19. Bloomingdale Civic Assoc., Inc.
P.O. Box 1438
Washington, D.C. 20013

Attested by: _____

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

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