

THE DISTRICT OF COLUMBIA ZONING COMMISSION
441 4th Street NW, Washington, DC 20001

Bruce Monroe Neighbors } Zoning Case No. 16-11 _____
} Remand and Vacate Proceedings

RESPONSE IN SUPPORT OF PARK MORTON RESIDENTS COUNCIL EMERGENCY MOTION FOR MORE TIME FOR ALL PARTIES TO FILE COMMENTS IN ZC CASE NO. 16-11 AND A REQUEST FOR A PUBLIC HEARING, OR IN THE ALTERNATIVE, BRUCE MONROE PARK NEIGHBORS SUBMITS AN EMERGENCY MOTION REQUESTING THE ZONING COMMISSION ACT TO GRANT MORE TIME TO ALL PARTIES TO FILE COMMENTS AND ISSUE AN ORDER FOR A PUBLIC HEARING IN ZONING CASE NO. 16-11

Bruce Monroe Park Neighbors requests that all parties be given more time to file comments in DC Zoning Case No. 16-11 for the good cause reasons shown below. Moreover we ask the DC Zoning Commission to hold a public hearing on this matter with further discussion about this matter given real changes on the ground for all parties.

The Bruce Monroe Park Neighbors bring this support response or in the alternative, submit our own motion for the Commission to act pursuant to 11-Z DCMR § 403.7, 11-Z DCMR § 407, *et. seq.*

Bruce Monroe Park Neighbors have served all other parties to this case and as an emergency we have not yet received consent for this motion/response. We understand parties may respond to the motion.

Introduction

Bruce Monroe Park Neighbors participated as a party in 2016/17 in the zoning hearings for Case No. 16-11. Members of the Bruce Monroe Park Neighbors filed an appeal of Zoning Order No. 16-11. The DC Court of Appeals, the highest Court in the District, sided with the plaintiffs and vacated the zoning decision on June 25, 2020.

Just four short days after the DC Court of Appeals decision was published on June 25, 2020, the DC Zoning Commission held an unnoticed meeting by Zoom almost as if the Zoning Commission had advanced warning to be prepared and ready to contend with the Court's decision. No one publicly knew of this virtual zoning meeting held on June 29, 2020, including affected Advisory Neighborhood Commissioners in the area. Moreover, the DC Court of Appeals did not fully serve the June 25, 2020 Judgment in this matter to plaintiffs in the case expecting delivery by post mail.

The zoning record indicates residents in a 200 foot area around the Bruce Monroe site were neither informed of the Court vacate decision nor of the zoning meeting on June 29, 2020. And, without checking the validity of parties latest contact info by making phone calls or using home addresses, the Commission significantly delayed the service of the Procedural Order notice to the Bruce Monroe Park Neighbors and other parties including the Park Morton Residents Council.

Bruce Monroe Park Neighbors ask the Commission to update our contact information. Further, we ask for more time to submit comments to the Commission on this case. And, we ask that given the importance of this case that the Zoning Commission hold a public hearing in this matter. For good cause reasons showcased below, we ask the Commission grant this motion in its entirety and find merit in our response in support of the Park Morton Residents Council.

Inadequate notice and unequal service

Bruce Monroe Park Neighbors believe it to be true that no one knew about the June 29, 2020 zoning meeting to contend with the Court vacating Zoning Order No. 16-11 except but for the Office of the Attorney General's attorneys, the Office of Zoning Commission's staff, and Zoning Commissioners themselves. Local ANC's were not noticed. The winning plaintiff's in the DC Court of Appeals case were not noticed. 200-footers were not noticed. We aren't even sure if the Councilmember for Ward 1 was noticed, but if so Councilmember Nadeau did not ensure the Commission informed affected neighbors and representatives.

Moreover, service of the Commission's June 29, 2020 "Procedural Order" went out to bad emails after the unnoticed zoning meeting. The Commission's secretary wrongly presumed that emails for the parties would still be working three years on from the initial zoning hearings and decision in 2016/17. This is evidenced in the zoning record where an email had to be sent again to the Park Morton Residents Council. The same goes for Bruce Monroe Park Neighbors who were sent the June 29, 2020 Zoning Commission decision to what is in effect a defunct email account possessed by former member, Austin Badger, who stepped back from the group after our comments and concerns were ignored by the Zoning Commission the first time around. That is, the current Bruce Monroe Park Neighbor members, which now include the plaintiffs in the appeals case, were never served the Procedural Order despite putting our post address and phone number on the record in our party status request form shown by Exhibit #36 on the record.

Heightening the lack of adequate service parity for all parties is the fact that we are all struggling with a global pandemic that has come to our city. The Mayor just extended the emergency response window to October, yet in this time of harrowing crisis the Zoning Commission had the capacity to get together written protocols contending with the vacate decision and then discussed and approved them just four days after the Court Judgment without notice to anyone that we are aware of. As neighbors who are directly affected by the outcomes in this case, we are asking with good cause for more time to file comments on this matter especially taking into account the problems with notice and service as well as the substantial pandemic burdens bearing down on us, wholly out of our control.

For the aforementioned reasons, we ask the Commission grant more time for review of the Judgment, the Procedural Order, and our positions and those of our members to prepare comments for the record. We would ask for at least 45 additional days to file these comments and we would ask that all parties, ANC's, 200-footers be put on notice of a public hearing.

A public hearing is necessary

The Bruce Monroe Neighbors ask that a public hearing allowing parties to produce witnesses to contend with the issues discussed in the Judgment. The request by the Park Morton Residents Council and the Bruce Monroe Neighbors for a public hearing in this matter is supported by the DC Comprehensive Plan regarding transparency in decision-making including public input (10A DCMR 2507, et. seq., IM-1.5 Public Input) and a whole neighborhood approach to planning (Policy H-1.4.6: Whole Neighborhood Approach).

All residents are aware that acute review by public agencies during the PUD process is critical to the development review and decision here. Inadequate agency reporting adversely affects all neighbors around the Bruce Monroe site and even potential future residents at the site such as Park Morton residents. Unfortunately the Commission's June 29, 2020 Procedural Order incorporates the mistake of the Court of Appeals Judgment that misconstrues the agency reporting on the record. As shown, public agency reports due at least a week before hearings were submitted to the Zoning Commission about an hour before the only hearing on the matter. Moreover, no one in the audience, including the Bruce Monroe Park Neighbors had any clue that these agency reports were put on the record at all until after the hearing was held and the record was closed. What is very clear is that the public agency reports on the record are deficient or missing from the record all together. The Zoning

Regulations were crossed here as to timely filing agency reports resulting in the public and all parties being prevented from examining the merits or lack therein of these agency reports. Some of these deficiencies were predictable and put on the record before the hearing was held as claims against the zoning application, but ignored by the Commission.

The Bruce Monroe Park Neighbors want to avoid this happening again and ask the Commission grant a public meeting so that parties may actually examine the public agencies review of longterm adverse affects of the PUD. The Zoning Regulations make clear that timely review of agency reports is necessary to determine the scope of adverse affects of the PUD. This has not happened yet and a public hearing will remedy this actionable error.

In addition to the facts surrounding the deficiencies in agency reporting shown above, we also face the the very real on the ground changing scenarios for all parties and city services coming to light since the initial zoning decision. There are real school overcrowding issues rising up across the city and in our neighborhood. The green space concerns are heightened as there has been no collaborative plan in writing between the city and the Bruce Monroe gardeners to ensure this critical amenity can exist and continue after project approval during and after construction. There is no collaborative plan in writing for the recreation activities and amenities relied upon by community groups at Bruce Monroe park now to continue after project approval during and after construction. There is no collaborative plan in writing to contend with proper emergency services for the area around the site after approval of the project. There is no real collaborative plan for the Park Morton residents who have been begging the Mayor and Councilmember to ensure the Park Morton Equity Plan is adopted into the legal contract set forth with project approvals. There is a pandemic now, requiring more open space not less. There are a lot of neighbors who still aren't aware of this project. There are a great many issues that still exist and are heightened by real on the ground changes to all people, parties, and the land that this project may exist upon and effect. The Comprehensive Plan supports further review of these issues as well (Policy T-1.1.2: Land Use Impact Assessment, Policy UD-2.2.9: Protection of Neighborhood Open Space, Action PROS-4.2.A: Zoning Assessment of Institutional Land, Action H-1.4.E: Additional Public Housing, Policy IM-1.5.2: Promoting Community Involvement, *inter-alia*).

The community and parties deserve due process and full transparency as to the basis for the zoning application, decision, appeal, and vacate judgment. Thus, the Bruce Monroe Park Neighbors join with the Park Morton Residents Council in calling for a public hearing in this matter, just as the

Zoning Commission conducted during the McMillan Park remand decision. Anything less shows that the Commission cares less about community concerns and transparency, and more about just dotting the i's and crossing the t's on a very controversial project that will have permanent affect on all parties and all neighbors in our residential community. Upon consideration of the forgoing facts and rationale, we ask the Commission grant our request for a public hearing on this matter.

Conclusion

The inadequate and unequal service of the Procedural Order and results of an unnoticed zoning meeting on June 29, 2020, gives rise to granting more time for all parties to submit comments on this case. The Bruce Monroe Park Neighbors asks the Commission order an extension of time of at least 45 days for all parties to submit comments. The deficiencies in the record and on the ground real world changes since the initial zoning decision coupled with the real consideration of very real planning needs in a transparent way supports the request for a public hearing. Along with the Park Morton Residents Council, the Bruce Monroe Park Neighbors ask the Commission order a public hearing after the extended comment period is over. We ask our support response and motion be granted per 11-Z DCMR § 403.7, 11-Z DCMR § 407, *et. seq.*

Regards,



Tonya Williams, c/o Bruce Monroe Park Neighbors

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CERTIFICATE OF SERVICE

The above submission has be filed with the Zoning Commission on this the 28th day of July, 2020, by the Bruce Monroe Park Neighbors from parkviewneighbors@gmail.com.

Served were the Zoning Commission:

zcsubmissions@dc.gov, sharon.schellin@dc.gov

And all parties:

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