

**DISTRICT OF COLUMBIA ZONING COMMISSION
441 4TH STREET NW SUITE 200 SOUTH
WASHINGTON DC 20001**

**AUGUST 6, 2020
ZC CASE NO. 16-11**

The Bruce Monroe Park Neighbors, consisting of directly affected neighbors within 200 feet of Bruce Monroe Park, as well as similarly affected residents and parties, submit the documents enclosed in response to the Zoning Commission Order dated June 29, 2020, and in time pursuant to the Secretary's email seen as Exhibit No. 259A on Zoning Record 16-11.

The Commission's June 29, 2020 order was issued the same day that an unnoticed meeting was held by the Zoning Commission, just four days after the vacate and remand decision was issued by the DC Court of Appeals of Zoning Order No. 16-11.

The Bruce Monroe Park Neighbors were never noticed or otherwise informed about the June 29, 2020 order as the email the Secretary has on record is no longer active, and moreover, there was no good faith attempt to post mail the order or even phone the parties to the agency proceedings. We had very little time to respond to June 29, 2020 order, about ten days time during a global pandemic. This is not only unfair, it may be unconstitutional. We believe we are owed more time to submit the full scope of a response.

Given the rigidity of the zoning regulations and that no filings considered "late" will be considered by the agency at all, we have been compelled to put everything down during a pandemic to contend with this administrative scramble being foisted onto us, District of Columbia residents, none of whom are paid consultants, lawyers or any of the such. Bruce Monroe Park Neighbors is an all volunteer group.

We are directly affected neighbors who will have to contend permanently with what would be the tallest most dense building built north of Bryant Street along Georgia Avenue, and coming with it will be a myriad of obvious and unstudied adverse impacts onto us and our community. The proposed project is of the density and bulk to rival those in the Downtown District, which is not a moderate-density residential community. Nor thus shall we be anymore either.

In response to the Commission, we ask the following Submission Enclosures be included for the record:

1. Contest of the Posture of the Zoning Commission's June 29, 2020 Order
2. In Abundance of Caution, Our Statement In Response to the June 29, 2020 Order
3. Attachments:
 - a. PUD Information
 - b. School Overcrowding

We ask again that the Commission order a public hearing on this matter given its lasting impact on all residents living and working around Bruce Monroe and including those now living at Park Morton.

Regards

s/n/

Tonya Williams
Bruce Monroe Park Neighbors
Neighborsofparkview@gmail.com

**DISTRICT OF COLUMBIA ZONING COMMISSION
441 4TH STREET NW SUITE 200 SOUTH
WASHINGTON DC 20001**

**AUGUST 6, 2020
ZC CASE NO. 16-11**

**Contest of the Posture of the Zoning Commission's
June 29, 2020 Order and Remand Procedures**

Fundamentally, the Bruce Monroe Park Neighbors, as a party to this case, rejects the posture of the Zoning Commission in how it is contending with the vacate and remand of the Court, and we openly contest the following:

A. The Commission is walking over the regulations concerning vacated orders and a remand from the Court in its rush to close the door on an open public discussion with no explanation or waiver of these regulations, highly prejudicing the parties

DC Municipal Regulations 11-Y DCMR 801.1 states that:

Upon receipt of a Court of Appeals mandate remanding a Board decision, the Director shall request the Office of the Attorney General (“OAG”) to provide a memorandum that: (a) Summarizes the Court of Appeals holding; (b) Identifies the issues that must be decided on the remand; and (c) Provides such further information and analysis as to enable the Board to comply with the remand instructions.

After looking up the DC Court of Appeals docket online in DCCA Consolidated Case Nos. 17-AA-554, 555, 556, we discovered that the Mandate for the Opinion was issued on July 17, 2020, yet the Zoning Commission held a unnoticed hearing on June 29, 2020, just four days after issuance of the Opinion on June 25, 2020, not after the Mandate was issued. There was no waiver of 11-Y DCMR 801.1 as to the rushed timing, and we are asking the Commission come clean as to any behind the scenes notice from the Court of Appeals staff or judges as to why they were prepared in such a short turn around time frame to hold an publicly unnoticed hearing.

There was no waiver of 11-Y DCMR 801.1 as to the Attorney General’s role here to transparently “provide a memorandum” to help the Commission and public contend with the vacate and remand. There’s no memorandum on the record and the June 29, 2020 doesn’t reference any efforts of the Attorney General in this regard. Further, the June 29, 2020 virtual meeting held by DC Zoning Commission over Zoom was done so without any recorded notice to the public -- no notice to the local Advisory Neighborhood Commissions, not to the Ward One Councilmember, not to the At Large Councilmembers, not to the winning Pro se Petitioners, not to the 200-footers around the site -- no one got notice of this meeting.

The prejudice also comes by way of service, and lack therein of the June 29, 2020 Order that was issued by the Commission. 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 June 29, 2020 order to the Bruce Monroe Park Neighbors and other parties including the Park Morton Residents Council. This fails 11-Z DCMR 205.3. We have been substantially prejudiced by the minimal effort to serve the Order to an email account now more than 3 years after the initial hearing. There was no attempt to call or send by post mail the Procedural order, and the extra 6 days granted after we complained is still too little time given the permanence and import of these matters. This has hurt us and remedy would be for additional time to file a more robust response, or in the alternative hold a well-noticed public hearing on these matters.

B. The Commission should order a public hearing in these matters of public import regarding public land, public tax dollars, public housing, and the disruption and elimination of existing public amenities such as recreation and green space

The Bruce Monroe PUD application not only affects the moderate-density residential community around the site, but also affects more than 100 families at Park Morton. The sheer volume of people this affects merits a public hearing.

Moreover, this isn't a small private PUD project. We are talking about a substantial change to the prevailing community with a building size seen no where else in the area. But even more important is what's at stake to the community as a whole – lots of public assets and tax dollars are involved here, paid for by the residents living and working around the Bruce Monroe park and at Park Morton.

Public housing, a public park, a public garden, public dollars, public services are all involved in this proposed PUD application – there should be a public hearing as supported by the Comprehensive Plan's encouraging, "transparent decision-making in all land use and development matters, making information available and accessible to residents and maintaining open lines of communication with the public as plans are developed." 10A DCMR 2507.6.

A public hearing and further development review process under remand can help, "to ensure that impacts on neighborhood stability, traffic, parking and environmental quality are assessed and adequately mitigated." 10A DCMR 2502.5.

A public hearing on matters of such public import, "[A]llows the community to predict and understand the course of future public actions and shape private sector investment and actions too. It allows the District to ensure that its resources are used wisely and efficiently." 10A DCMR 109.1.

Bruce Monroe Park neighbors ask respectfully for the Commission to hold a public hearing under remand and do so with proper notice.

3. The Commission doesn't clarify the the error of the Court in the vacate order depicting the timing of submission of the required agency studies and the regulations governing agency reports, and our rights to contest the agencies timely at the zoning hearing.

The Court of Appeals Opinion dated June 26, 2020, perceives both the record incorrectly and makes the wrong conclusion that affects the rights of all parties on remand right now, particularly new members of the Bruce Monroe Park neighbors.

The Court states pertaining to agency reports:

Once the additional materials were submitted, petitioners and other parties had ample opportunity to raise a post hearing objection that the materials were belated or otherwise inadequate. As far as we have been able to determine, however, no such objection was presented to the Commission. Understandably, the Commission did not address the issue. Under the circumstances, we hold that the issue was forfeited and is not a proper basis for relief.

DC Court Opinion dated June 24, 2020, at page 31.

The Commission must address the issue of the agency reports and lack thereof as it was contested

First, the Court gets right that only parties to the agency proceedings could have contended with the fact that agencies submitted the most minimal attempt at a review of the PUD project some within an hour before the last hearing at the Zoning Commission (see emails from DDOE and DC Water). But no one, except for maybe the Applicant knew at the time of second and last public hearing that any basic mundane emails, lest studies were put on the record at all.

Further, the Commission never waived the required duty of the agencies to get in written reports in a timely way for public review before the hearing. Anticipating the lackadaisical approach to planning happening in DC was indeed non-parties and the public – who could not respond post hearing as the record was immediately closed after the hearing. Before the record was slammed shut, residents who were denied party status, and wrongly so, such as the Georgia Avenue Neighbors group openly contested study of impacts in several places on the record, including:

Impacts on Public Services

There is no sense from DC Water to get specificity as to the water needs of the proposed project such as how much fresh water this project will require on a daily basis and will the fresh water capacity currently serving the surrounding community be affected by this new stress on the public water systems. It is fair to say that the amount of sewage coming from this proposed project will be far greater than the existing water and sewer needs. The Office of Planning has not considered the coordination of the municipal public systems that will be impacted by this project, among the others in the area, and hence there is no qualitative understanding of contributions from the public and the applicant to upgrading the municipal water, electric and gas systems that will serve this PUD project. For example, there are no reports from DC Water, Washington Gas or Pepco on the record. OP has not determined the capacities of these utilities in serving the PUD site, and the existing community simultaneously. There is no sense of who will pay the repair bill for a catastrophic collapse of any of these public utility systems during

construction or after the project is operating. And OP has not coordinated an evaluation of emergency response capacity with the Fire Department or MPD about this project considering the volume and density of new residents and commercial entities in case of an emergency or in terms of daily safety protections currently serving the community. Relevant Comprehensive Plan policies: CSF-1.1; CSF-1.1.1; CSF-1.1.2; CSF-1.2.2; CSF-1.2.6; CSF-3.2; CSF-4; CSF-4.2; IN-1.2; IN-1.2.2; IN-2.1.1; IN-5; IN-6; IN-6.1.3.

Georgia Avenue Neighbors (GAN), Exhibit No. 181 at page 2.

So clearly, the issue of adequate and timely study of project impacts was indeed timely raised before the Commission. A member of GAN, Ryan Cummins appealed the Zoning Commission decision and won. For the Court to discuss that a key issue on remand may be limited in any way is wrong. Perhaps we are misunderstanding this, but certainly the Zoning Commission isn't correcting any misunderstanding by the Court to the favor of the Applicant and against the public and even parties.

So, a member of the public did indeed contest the agency studies, and then brought that the Court's attention. The limitation now of any further proceedings in this matter to just parties who participated during agency proceedings and any attempt to limit any of the zoning requirements even on remand unfairly limits and steps on the fundamental purpose of the Zoning Commission, "[t]o protect the public health, secure the public safety, and to protect property in the District of Columbia." D.C. Code § 6-621.01(a). And, the Commission is to serve as an "independent" guardian of the community, and this fundamental role is carried on in the zoning regulations, especially as it relates to reviewing Planned Unit Development applications. D.C. Code § 2-502. The PUD zoning regulations say, "The overall goal is to permit flexibility of development and other incentives, such as increased building height and density; provided, that the project offers a commendable number or quality of public benefits and that it protects and advances the public health, safety, welfare, and convenience." 11 DCMR § 2400.2.

Certainly we do not believe the Court is attempting to limit the central role and mechanics of the Commission, even under remand, to conduct a "comprehensive public review" that considers "potential adverse effects" of the project "on the surrounding area" which can be "capable of being mitigated" through conditions in the Order. 11 DCMR § § 2400.3, 2403.3, 2403.8. We want the Commission to clarify their role in protecting us, the public from adverse effects of the PUD. And we believe this can happen only through a public hearing on these matters, open to the public parties and non-parties alike.

Timely and transparent review and reporting by relevant agencies is needed to mitigate adverse impacts of the PUD

Members of GAN are now also part of Bruce Monroe Park Neighbors for the sake of being able to participate in this remand in any substantive way since their group was capriciously denied party status in the initial round of hearings. These members and all members of the public affected by this project ought to see a real review of the adverse impacts by the Commission to the maximum extent feasible per the Comprehensive Plan and Zoning Regulations, for the noticeable lack of basic project impact evaluations on the agency record makes impossible the Commission's central job during PUD application review: "to balance and reconcile" project "benefits" and "mitigations" versus project "impacts" and "adverse effects" pursuant to 11 DCMR § 2403.8 (1958).

Adequate emergency response to the new community after anything may be built at Bruce Monroe, let alone a major new tower of residents, is critical to us, the public. The Comprehensive Plan says that "The city's ability to respond quickly may be compromised as streets become more congested. Competing demands for water and deteriorating infrastructure may also affect firefighting capacity." 10A DCMR § 1112.2. The written reports that may be on the record are inadequate. For example, the Fire and Emergency Management Services (FEMS) support of the Applicant's project addresses none of these planning and safety issues as highlighted in the Comprehensive Plan. See also, 10A DCMR § 1114.8, Comprehensive Plan Policy CSF-4.2.1: Adequate Fire Stations; 10A DCMR § 1114.11, Comprehensive Plan Action CSF-4.2.A: Level of Service Monitoring, among others.

The Comprehensive Plan expects that, "[c]hange or growth within the District's neighborhoods including the development of new housing areas will require assessment of MPD facilities and personnel needs." 10A DCMR § 1113.3. Neither the Office of Planning nor the Commission seek studies or reports from DC MPD addressing the impact that such large buildings with far greater density than seen in the existing area will have on local police and emergency resources. The failure to require even the most minimally acceptable review of the public safety impacts of ANY development of this scale would constitute a failure on the part of the Commission.

Continuing on, DC Water's 'approval' consists of a single paragraph that fails to explain its own understanding of the project. That is, DC Water makes no mention of how much fresh water will be needed to serve the project daily or how much sewer water will be generated by the project. Moreover, DC Water makes no attempt to evaluate or explain the condition of the century-old existing public water service pipes serving the community, and proposes to put off the critical review of potential water utility upgrades until after the development review, suggesting that they instead be done during the "building permit review." Permit review is an entirely discretionary process that happens

behind closed doors at the Department of Consumer and Regulatory Affairs (“DCRA”). Now is the time, during the Commission’s development review, to seek basic evaluations that will help determine if a project is even feasible in its size and proposed location given the capacity and efficacy of existing infrastructure to service the existing residents in addition to serving such a new large project in the community, like the Bruce Monroe PUD.

The Comprehensive Plan demonstrates the obvious connection between development, land use and water infrastructure in Policy IN-1.2.1, "Modernizing and Rehabilitating Water Infrastructure". This policy expects city planners to, "Work proactively with WASA [now DC Water] to repair and replace aging infrastructure, and to upgrade the water distribution system to meet current and future demand." 10A DCMR § 1304.3. “In conjunction with WASA, the District must consider the impacts of new development and ensure that water infrastructure will be able to meet future demand.” 10A DCMR § 1304.1. Water mains around the PUD site are 100 years old as depicted by the Utility Plan put on the record by the Applicant. We want planning taken seriously in this city, the Nation’s capital. We don’t want to deal with burst pipes a year or two after any project is built.

School overcrowding is a very real issue and now years on it has become quite acute in our neighborhood as families abound. This will become even more a real planning issue by bringing in new Park Morton neighbors with families. This must be studied openly and reviewed for consideration of adverse impacts before any PUD decision are made. See Attachment A, enclosed herein. This holds as true as infrastructure study, emergency response study, and environmental impact study.

PUD approvals are meant to protect those living and working in the surrounding area of the PUD site. 11 DCMR § 2400.2 (emphasis added): ("The overall goal is to permit flexibility of development and other incentives, such as increased building height and density; provided, that the project offers a commendable number or quality of public benefits and that it protects and advances the public health, safety, welfare, and convenience."). The Commission is required to conduct a “comprehensive public review” that considers “potential adverse effects” of the project “on the surrounding area” which can be “capable of being mitigated” through conditions in the Order. 11 DCMR § § 2400.3, 2403.3, 2403.8. The PUD regulations were intently created and promulgated with express consideration of the “character” of the zone districts involved, the “suitability” of “uses” in each zone district, and the “encouragement of the stability of districts and of land values in those districts” 11 DCMR § 101.2.

Bruce Monroe Park Neighbors want a “Whole Neighborhood Approach” to municipal planning that ensures, “. . . the construction of housing is accompanied by concurrent programs to improve neighborhood services, schools, job training, child care, parks, health care facilities, police and fire

facilities, transportation, and emergency response capacity.” 10A DCMR § 506.12. We believe an open public hearing on these matters is warranted and should be ordered by the Commission as supported by the DC Comprehensive Plan and Zoning Regulations, as well as basic planning principles set forth in the Ethics of the American Institute of Certified Planners.

Conclusion

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).

We deserve a public hearing on this matter.

**IN SUPPORT OF THIS RESPONSE AND POINT 1 OF THIS SUBMISSION – BRUCE
MONROE PARK NEIGHBORS ADOPTS ALL FACTS, CITATIONS TO LAW AND**

**REGULATIONS AS FOUND IN PRO SE APPELLANTS BRIEFING DOCUMENTS THAT
WON THE APPEAL IN DCCA CONSOLIDATED CASE NOS. 17-AA-554, 555, 556.**

DISTRICT OF COLUMBIA ZONING COMMISSION
441 4TH STREET NW SUITE 200 SOUTH
WASHINGTON DC 20001

AUGUST 6, 2020
ZC CASE NO. 16-11

RESPONSE TO JUNE 29, 2020 ZC ORDER

August 6, 2020

Office of Zoning
441 4th Street NW Suite 200S
Washington, DC 20001

Re: The Procedural Order Reflecting the Zoning Commission's Oral Request for Parties' Responses to the Court of Appeals Remand.

Dear Members of the Zoning Commission:

As a party to the above-mentioned case, the Bruce Monroe Park Neighbors wish to submit the following information pertaining to the issues identified by the DC Court of Appeals in its order to 'vacate and remand' Zoning Order 16-11. This letter is intended to be direct response to the July 8, 2020 letter submitted by the ANC 1A, Subject: "ZC 16-11: ANC1A Response to Procedural Order Reflecting the Zoning Commission's Oral Request for Parties' Responses to Court of Appeals' Remand".

- 1) **That the ninety-foot high building protrudes into a Neighborhood Conservation Area (NCA).** While a building of this scale may be argued to be necessary to accommodate the number of units to supposedly meet the New Communities Initiative's artificial objective of a 30-30-30 split between market rate, medium income, and subsidized, it unnecessarily conflicts with the Comprehensive Plan's Generalized Policy Map (GPM).

As the Court pointed out in its Judgement, the "Comprehensive Plan reflects numerous occasionally competing policies and goals." If there are conflicting provisions of the Comprehensive plan, the Commission may approve a PUD "only if the Commission concludes that disregarding one such mandatory provision is necessary to comply with one or more other such provisions and that when a conflict exists, the non-mandatory requirement would be superseded by the mandatory one." Yet the zoning commission

approved the rezoning and the PUD application for a mammoth-sized building, that encroaches not only across the NCA, but also across Zone designations.

Moreover, the bulk of the density between the two inter-related projects is unfairly placed on Bruce Monroe challenging the GPM and FLUM here while understepping the densities allowed at the Park Morton site, and without explanation. We understand this issue and so do the affected Park Morton residents who don't necessarily want to live in a glass and steel tower at Bruce Monroe that challenges the community's built character and at the same time to have to move into smaller units than those they have now at Park Morton. In fact, many Park Morton residents expressed a preference for living in a low rise or townhouse building in their statements before the Commission and want homeownership opportunities extended to them. Anything otherwise, is an adverse affect of the PUD resulting in the turning of people in commodities and widgets that can be moved around at the city's whim. It's unfair & disgusting.

2) That the areas adjacent to the western portion of the PUD are designated moderate-density residential, not medium-density residential on the Future Land Use Map (FLUM).

This can be no such 'scrivener's error as it is repeated throughout both the application and the zoning order. This designation is intentional. The Zoning Commission cannot be allowed to crush in a high-density building into a moderate density residential area to the service of any Applicant, let alone one that is supposed to be representing the city, as in DC tax payers like us.

3) That the ninety-foot-high apartment building and the sixty-foot-high senior building are not generally consistent with these designations shown in the Future Land Use Map.

In order to achieve the height required for the density on such a small plot of land, the current designations on the zoning map would need to be leveled-up (from R4 to R5B and C2A to C2B), and a Planned Unit Development would need to be approved. Even if this was done strictly along the boundaries in the FLUM, i.e. 151 feet from Georgia Ave, the western portion of the Apartment building would be stuck in an R5B zone which even with a PUD would be 30 feet taller than allowed by 11-DCMR-2405.1. The impact of the project on the surrounding area, on City services, on the more than century-old infrastructure, and on the financial cost of implementing the project was not fully understood, or even respected by the city. This is a project that must be completed at all costs regardless of its impact on emergency response times or the quality of life not just for the people living around the development now, but those 500+ people who would be crammed onto an acre of land, post-pandemic.

4) That the senior building does not mimic any other apartment houses that have been built as infill developments in the area.

To put a senior facility in an area already congested with traffic, bordered by one-way streets, in an area that failed the traffic analysis submitted by the Applicant, yet insist that the emergency response times will not be affected, is irresponsible and shows little concern for the seniors living there.

5) It's Plain to see that the PUD is inconsistent with the Municipal Regulations of the District and the Commission should NOT have granted the PUD in the first place.

The entire build-first concept bandied about by the City as the panacea to our housing crisis may seem altruistic conceptually, but in practice seems to be purposely fouled up as the displacement at Barry Farm and now Park Morton proves.

The New Community Initiative's own policy advisor, Quadel, (see Exhibit 182) concluded that the "build First Principle (which entails starting with new construction of replacement units off-site in advance of on-site redevelopment) is not cost or time effective, particularly when combined with the desire to ensure units serving a range of incomes. Build First is costly because it means having to plan, finance and build not just replacement units, but affordable units as well."

We seek to help Park Morton residents, but DCHA and DMPED are preventing a compromise plan. Only a public hearing and active open discussion will allow this, per the Comprehensive Plan policies about transparent decision making.

6) Explain the Commission's reasoning in granting or denying approval.

In addition to the facts pointed out above, the Court repeatedly mentions in their Order that the Zoning Order was 'over 90% verbatim copy of the PUD application. A careful reading of the Zoning order will reveal that the primary change was a substitution of 'life of the project' for the original request for a '99 year' lease term. As citizens of the District, we find it completely abhorrent that an agency whose duty is to 'prepare, adopt, and implement' the zoning regulations, would simply rubber stamp such a complicated project that could have national implications for how cities fund and implement mixed-income mixed use developments.

**VACATE AND REMAND ZC CASE NO. 16-11
BRUCE MONROE PARK NEIGHBORS**

ATTACHMENT 3.A.

SURROUNDING PUD's

ATTACHMENT 3(A) -

The Zoning Commission's approval of the 16-11 Bruce Monroe Development Plan was predicated on a demonstrably unsupported finding that the intrusive 90' design would not substantially change or conflict with the "character of the neighborhood," its environment, its aesthetics, and its zoning as a moderate-density area. The record shows that the Zoning Commission determined—without factual basis—that the Bruce Monroe Community Park location had other equivalently tall buildings in it. That finding had no factual basis because it, in turn, relied exclusively upon the anticipated future construction of similarly obtrusive buildings in the general area, and specifically:

1. 3212-3216 Georgia Ave - 87' high - (Z.C. Cases Nos. 13-10 et seq.)
2. 32 THIRTY TWO APARTMENTS, 3232 Georgia Ave - 80' high - (Z.C. Case No. 08-26)
3. THE VUE, 3221-3335 Georgia Ave - 90' high - (Z.C. Case No. 10-26 et seq.)
4. THE AVENUE, 3506 Georgia Ave - 73' high - (BZA Order 18078)
5. SWIFT PETWORTH, 3830 Georgia Ave - 85' high - (Z.C. Case No. 11-09)
6. THREE TREE FLATS, 3910-3912 Georgia Ave - 78' high - (Z.C. Case No. 08-08)
7. THE RESIDENCES AT GEORGIA AVE, 4100 Georgia Ave - 72' high - (Z.C. Case No. 05-19)

In basing the justification for approval of the 16-11 Bruce Monroe Community park development plan as not in gross conflict with the existing neighborhood environment and Conservation Area the Zoning Commission engaged in indefensible circular logic: it based a not yet built building approval on other not yet built buildings. Not only have these other building not yet been built and therefore offer no support for the assertion that a similarly sized building—although 90' high is bar far the tallest—but moreover, the only developments within reasonable range of the 16-11 site are projects are now defunct and will not be built.

1. 3212-3216 Georgia Ave - 87' high - (Z.C. Case No. 13-10 et seq.)

"In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby ORDERS APPROVAL of Z.C. Case No. 13-10A, such that an application for the building approved pursuant to Z.C. Order No. 13-10 must be filed no later than June 27, 2018, and construction of the building must begin no later than **June 27, 2019.**"¹ **Dated June 27, 2016.**

¹ Z.C. ORDER NO.13-10A, Z.C. CASE NO.13-10A, p. 4 (June 27, 2016).

Obviously, the June 27, 2019 date for construction to begin has passed and no extension was requested. So, this is no longer an approved plan on which the 16-11 approval can be based.

2. 32 THIRTY TWO APARTMENTS, 3232 Georgia Ave – 80’ high – (Z.C. Case No. 08-26)

“The PUD approved by the Zoning Commission shall be valid for a period of two (2) years from the effective date of this Order. Within such time, an application must be filed for a building permit as specified in 11 DCMR § 2409.1. Construction shall begin within three (3) years of the effective date of this Order.”² **Dated April 27, 2009.**

Obviously, the April 27, 2009 date for construction to begin has passed and no extension was requested. So, this is no longer an approved plan on which the 16-11 approval can be based.

Moreover, given that this the 08-26 approval **expired in 2011**, it is deceptive and misleading for the Zoning Commission to refer to it as though it were a pending project on which the justification for a future project could be based. This project is not, and was not at the time of 16-11 hearings and deliberations, a planned development, having expired over half a decade before.

3. THE VUE (or latest name), 3221-3335 Georgia Ave – 90’ high – (Z.C. Case No. 10-26 et seq.)

“In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby ORDERS APPROVAL of the application for a two-year extension of the time period in which to file a building permit application for the approved PUD located at 3321-3335 Georgia Avenue, N.W. (Square 3040, Lot 130), such that an application for a building permit must be filed no later than September 2, 2019, and construction must begin no later than **September 2, 2020.**”³ **Dated September 25, 2017.**

The September 2, 2020 date for construction to begin is 27 days from now and no extension has been requested requested. So, this is likely not much longer to be an approved plan on which the 16-11 approval can be based.

4. THE AVENUE, 3506 Georgia Ave – 73’ high – (BZA Order 18078)

² Z.C. ORDER NO.08-26, Z.C. CASE NO.08-26, p.19 (April 27, 2009).

³ Z.C. ORDER NO.10-26D, Z.C. CASE NO.10-26D, p.7 (September 25, 2017).

This development/building (now built) is 5-6 blocks away from the Bruce Monroe Community Park location, and is therefore far from a sound basis for comparison.

5. SWIFT PETWORTH, 3830 Georgia Ave - 85' high - (Z.C. Case No. 11-09)

This development/building (now built) is 10-11 blocks away (.7 miles, or almost 1/10 of the length of the District) from the Bruce Monroe Community Park location, and is therefore far from a sound basis for comparison. It is part of the core Georgia Avenue-Petworth Metro Center Development area that includes the transit center and high-rise buildings. It is a completely different environs than the Bruce Monroe Community Park area.

6. THREE TREE FLATS, 3910-3912 Georgia Ave - 78' high - (Z.C. Case No. 08-08)

This development/building (now built) is 11-12 blocks away (.8 miles, or almost 1/10 of the length of the District) from the Bruce Monroe Community Park location, and is therefore far from a sound basis for comparison. It is part of the core Georgia Avenue-Petworth Metro Center Development area that includes the transit center and high-rise buildings. It is a completely different environs than the Bruce Monroe Community Park area.

7. THE RESIDENCES AT GEORGIA AVE, 4100 Georgia Ave - 72' high - (Z.C. Case No. 05-19)

This commercial development/building (now built, with a supermarket and commercial center on the ground floor) is 12-13 blocks away (.9 miles, or almost 1/10 of the length of the District) from the Bruce Monroe Community Park location, and is therefore far from a sound basis for comparison. It is part of the core Georgia Avenue-Petworth Metro Center Development area that includes the transit center and high-rise buildings. It is a completely different environs than the Bruce Monroe Community Park area and far too far away to be relevant.

In sum, there is not a single similarly heighted building within half a mile or more of the Bruce Monroe Community Park location approved for a 90' building in the 16-11 development plan. This, of course, makes sense because the area is moderate-density zoned and not medium-density zoned, so such massive, obstructive, intrusive, and fundamentally inappropriate buildings **do not exist** in the neighborhood.

**VACATE AND REMAND ZC CASE NO. 16-11
BRUCE MONROE PARK NEIGHBORS**

ATTACHMENT 3.B.

DCPS NEEDS AND ASSESSMENTS & OVERCROWDING

Attachment 3(B)—

The Bruce Monroe Community Park site hosted a public school until the Fenty Administration closed the school and demolished it. On August 10, 2009 the Fenty Administration issued a press release announcing that the demolition of the Bruce Monroe School had begun.¹ The press release also announced that an Request for Proposals (RFP) would be issued in the fall for a mixed use development on the school site. The RFP did not ultimately result in any bids being awarded due to the lack of interest from developers in the midst of a global financial crisis.

However, the Fenty Administration made explicit commitments to build a new school. Per the attached letter written by Michelle Rhee, dated May 5, 2008, the Fenty Administration promised to rebuild a new school on the old Bruce Monroe school site. Subsequent administrations have ignored the overcrowding at schools serving the Columbia Heights/Park View community. As a May 2, 2019 Greater Greater Washington article notes, DC is projecting a 25% increase in school enrollment between 2017 and 2027.² According to the DCPS 2019 Master Facilities Plan Supplement, published on December 18, 2019, the Tubman Elementary School at 3101 13th St NW DC is expected to be at 92% capacity in the 2023-24 school year, and is expected to reach 102% capacity in the 2028-29 school year. The middle and high schools serving the community are projected to be at 101% capacity in the 2023-24 school year, and are projected to further increase to 103% and 113% in the 2028-29 School, as noted in the table below.

SY2018-19 School Name	SY2023-24 Projected Utilization	SY2028-29 Projected Utilization	Notes on Projections
Bruce-Monroe Elementary School @ Park View	72%	79%	
Cardozo Education Campus	101%	113%	
Columbia Heights Education Campus (CHEC)	101%	103%	In 2019-20, DCPS enrolled an additional 2,000 students than in 2018. The increase in enrollment is not currently reflected within this version of the MFP supplement projections and will be included next year. As those students are added, these projections will shift to reflect that growth.
Tubman Elementary School	92%	102%	

*This table has been adapted from Appendix E of the 2019 Master Facilities Plan, published here: https://dme.dc.gov/sites/default/files/dc/sites/dme/publication/attachments/Appendix%20E%20%E2%80%93%20DCPS%205-%20and%2010-year%20Enrollment%20Projections%20_0.xlsx

The 16-11 development plan failed completely to consider--or even mention--the pre-existing commitment to build a school on the site. If the Fenty Administration had deemed it an

1<https://dmped.dc.gov/release/mayor-fenty-begins-demolition-bruce-monroe-elementary-school>
 2<https://ggwash.org/view/71802/can-dcps-survive-the-coming-enrollment-surge>

essential use of the space, then clearly there was sufficient impetus and justification to do so. It is unlikely, extremely so, that the need for a school simply dissipated.

Further, it should be noted that the above projections don't take the impact of building a 9 story building on the Bruce Monroe Community Park site into consideration. Given the outsize nature of the planned development, and therefore the intended population increase in the area incumbent with a medium-density high-rise being put into a moderate density area, it is clear that the 16-11 development will likely exacerbate the school capacity and overcrowding issues. The PUD failed to identify this as an impact of the development. It is one that must be considered.



DISTRICT OF COLUMBIA PUBLIC SCHOOLS

Office of the Chancellor

825 North Capitol Street, NE, 9th Floor, Washington, D.C., 20002-1994

(202) 442-5885 – fax: (202) 442-5026

May 5, 2008

To the Park View School Staff and Families,

As you know, Park View will be closing next year under my plans to direct more resources to the children in the District. However, the Park View building will house students from Bruce-Monroe and Park View beginning next year while a new Bruce-Monroe is built. Once Bruce-Monroe is rebuilt, the consolidated student body will move to the new school. As you make plans for your children for the fall, I would like to share with you some of the ways we can serve your children next year.

I understand that school closings are difficult. We are asking you to move quickly with us to change what— for many of you—has been familiar for years. This is never easy, and when I first saw the data on District students, I knew that it wouldn't be. *One* of our middle schools and *three* of our senior high schools made AYP/Adequate Yearly Progress last year. *Fifty* of our schools have proficiency rates *below 20%* in either reading or math. This means that four out of five children in those schools do not even meet the most basic level of proficiency. These are not cold numbers but represent real children, and our system is failing them. I understand that there is no one reason for this and that closing schools is only one of many necessary ~~measures we will have to take to turn around this system.~~ This can be especially hard for those schools who have met AYP and for everyone who has been working hard to advance student achievement. However, I am confident that the process of closing schools will allow us to better support that hard work on the District level. By directing more resources to schools, teachers will be more able to see the results they want for their students.

Below are some of the details that will help you to transition for next year. We will continue to provide you with more information as we work with schools to finalize transition plans.

Overall. Park View students are guaranteed a place at Bruce-Monroe at Park View next year, and it will become a pre-K to 5 school. As many of you know, the decision to move to consistent pre-K to 5, 6-8 and 9-12 grade configurations was made based on information in the Master Education Plan (MEP). This was created under Dr. Janey with significant input from parents, schools, the community, and experts in the field of education. Submitted to the DC Board of Education in February, 2006, it presented two models for our middle grades. One was a strong middle school model with grade configurations that fit neighborhood feeder patterns. The benefit of this model in your school community will be to align all of the grades so that they transition smoothly from one neighborhood school into another, and to provide schools that will have a strong developmental focus on the elementary and middle school grades.

Academic Programs and School Services. In addition to art, music, and physical education programs, Bruce-Monroe at Park View will have a librarian, assistant principal, guidance counselor, a literacy coach, a math coach, a social worker, a school psychologist, and a nurse. Students will also benefit from significant improvements to afterschool programming that we are implementing across the District. We are looking to hire a full-time afterschool coordinator who will be 100% focused on managing extracurricular activities that occur after the bell. Students in these programs will have an academic hour followed by 2 hours of

enrichment. A steering committee made up of the principal, parents, the afterschool coordinator and other stakeholders will provide input in the programming. Finally, the school will receive Bruce-Monroe's dual language program, and we are working to increase foreign language options at the school as well.

Safety and Security. To adjust to all new walking routes, DCPS is working with the Department of Transportation (DDOT) on the Safe Routes program, which will be improving sidewalks, lighting, and ensuring that crossing guards are present on the way to school. In addition, the Metropolitan Police Department (MPD) will provide increased presence and monitoring in certain neighborhoods so that all students can have safe passage to school.

Facilities. I understand the serious facilities concerns at Park View, and facilities will be upgraded in a facilities 'blitz' this summer. We will fix the roof, upgrade toilets, sinks and playground equipment. In addition, the school will undergo an overall facilities overhaul to make sure that heating, air conditioning, electrical and other systems work. Bruce-Monroe will receive a new school facility while all students attend Bruce-Monroe at Park View. The improvements we make will be fueled by one primary goal: creating a safe and optimal environment for student learning.

Staffing. This closing is especially difficult for the teachers at Park View, and many are concerned about staffing next year. I am encouraging school leaders to retain as many of the existing teaching staff as possible while meeting the educational goals of the school. A transfer fair, specifically for teachers at closing and restructuring schools, will be held on May 10th. Of course, we will make all staffing decisions according to the terms of existing contractual agreements.

Once students move into the new Bruce-Monroe and the Park View building closes, the Office of the Deputy Mayor for Education will be managing the process to decide how the building will be used in the future. If there is any period when the building is not in use, the city will be protecting that building as city property and does not intend to allow it to fall in disrepair or ill use.

The decision to close Park View over Bruce-Monroe was not an easy one to make, and Bruce-Monroe was initially the school proposed for closure. Both schools needed significant repairs and facilities updates, and Bruce-Monroe's open space set-up was not optimal for teaching and learning. After the community engagement process, we decided that we could meet our objectives for school closings while still preserving the dual language program by closing Park View instead. I am confident that this is the right decision for students so that they are in a learning environment that will maximize student learning, and I am committed to working with you through this change to make sure the students see the benefits of upcoming improvements we can bring for Park View and Bruce-Monroe students.

I know that you will welcome the Bruce-Monroe students and families warmly. Parents can encourage students to share the responsibility of helping Bruce-Monroe students to adjust to their new school environment. Helping all of our children to transition to a new environment will require the work and guidance of many adults in the system. We will be working with you for the remainder of the year and throughout the summer to smooth the transition. Despite the challenges that come with change, I am excited about the possibilities that we can now offer for children next year.

Sincerely,



Michelle Rhee
Chancellor

CERTIFICATE OF SERVICE

The above submission has be filed with the Zoning Commission on this the 6th day of August, 2020, by the Bruce Monroe Park Neighbors from parkviewneighbors@gmail.com.

SERVED THRU IZIS

COURTESY BY EMAIL:

Served were the Zoning Commission:

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

And all parties:

PARK MORTON RESIDENTS

parkmortonresidentcouncil@gmail.com

ANC1A

1a01@anc.dc.gov, 1a02@anc.dc.gov, 1a03@anc.dc.gov, 1a04@anc.dc.gov,
1a05@anc.dc.gov, 1a06@anc.dc.gov, 1a07@anc.dc.gov, 1a08@anc.dc.gov,
1a09@anc.dc.gov, 1a10@anc.dc.gov, 1a11@anc.dc.gov, 1a12@anc.dc.gov,

COUNCILMEMBER

bnadeau@dccouncil.us,

APPLICANT

kyrus.freeman@hklaw.com, maximillian.tondro@dc.gov,

Signed,

s/n

Tonya Williams, c/o Bruce Monroe Park Neighbors

EMAIL: neighborsofparkview@gmail.com