

West End Citizens Association
Washington, D.C.

Boundaries: 15th Street on the East • Potomac Park on the South
Rock Creek and the Potomac on the West • N Street on the North

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2006 SEP -5 PM 3:54

August 28, 2006

ZONING COMMISSION
District of Columbia

Ms. Carol J. Mitten, Chairperson
District of Columbia Zoning Commission
Office of Zoning
441-4th Street, N.W.
Washington, DC 20001

CASE NO. 06-12
EXHIBIT NO. 39

Re: Opposition to GWU's 8/25/06 Request to Reorder 9/14 ZC Public Hearings

Dear Ms. Mitten:

In response to two August 4, 2006 Zoning Commission Notices of Public Hearing, on August 16th, the West End Citizens Association (WECA) submitted two letters to the Office of Zoning Director. One requested "Party" status for Zoning Commission Case Nos. 06-11 and 06-12 relating to the George Washington University (GWU). The other expressed the WECA's intent to testify on Case No. 06-19, Text Amendment – College and University Regulations. The Commission's Notice for Case No. 06-19 stated, "THIS CASE IS OF INTEREST TO ALL ADVISORY NEIGHBORHOOD COMMISSIONS ... The case will be heard immediately prior to the hearing on ZC Cases 06-11 and 06-12" (emphases added).

This letter expresses the WECA's opposition to GWU's August 25th request (at the bottom of p. 2 of Maureen Dwyer's "Supplemental Filing" letter to you on these 3 cases) to reorder the Commission's September 14th two public hearings. First, since the Text Amendment (Case No. 06-19) is of interest city-wide, reordering it to after four (4) days of public testimony on GWU's land use applications (Case Nos. 06-11 & 06-12) would be unfair to interested persons throughout the City and inappropriate. Also, the WECA believes that any reordering should be indicated in a supplemental Notice published in the DC Register, providing the minimum 40 days of public notice, as required by 11 DCMR §3014.1(a). Second, the WECA firmly believes that the Commission should not hear GWU's land use applications (Nos. 06-11 & 06-12) until a Text Amendment is finalized.

Please find attached a 1-page document entitled "Quotes Related to Sequencing of Text Amendment Case Before GWU Cases." It begins by citing the WECA's February 12th letter stating, "the WECA believes that GWU's Notice of Intent for an omnibus PUD and Map Amendment is not consistent with the zoning regulations." Next is a detailed WECA e-mail to the Office of Planning (OP) Director as "input for OP's report to ZC for its setdown consideration of GWU's recent filings." Unfortunately, OP did not capture the main WECA point in its April 10th setdown report. The WECA stated, "GWU's 2/16 filings make multiple mentions of the need for OP to draft a Text Amendment to the rules governing campus plans. The WECA believes that this need is recognition that, under the current zoning rules, GWU

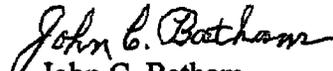
cannot proceed w/o a change to them ... the WECA believes that, until a Text Amendment is published for public comment, the Zoning Commission holds a hearing on the proposed text, & then the Text Amendment is **published as a final rule**, the Commission cannot ... hold a public hearing (emphasis added)." The Plaza Condominium's March 27th letter elaborates, "The Plaza believes that any public hearings ... by the Zoning Commission are premature since changes in the City's zoning regulations for campus plans and PUDs are necessary first."

On August 16th, the Foggy Bottom and West End Advisory Neighborhood Commission (ANC-2A) passed a resolution that the Text Amendment case should be heard and finalized first, i.e., before the Commission hears GWU's land use applications. The law requires the Commission to give "great weight" to ANC-2A.

The WECA intends to present testimony during the Text Amendment Case No. 06-19 that will elaborate on what changes in rules should be made (and published in final) before the Commission hears GWU's land use cases.

If any additional information is needed, Barbara Kahlow can be reached during the day on (202) 965-1083.

Sincerely,


John C. Batham
President

Attachment

cc Maureen Dwyer, Counsel for GWU
Vincent Micone, Chair, ANC-2A
Travis Parker, OP

Quotes Related to Sequencing of Text Amendment Case Before GWU Cases

2/12/06 WECA letter to OZ Director Jerrily Kress

“the WECA believes that GWU’s Notice of Intent for an omnibus PUD and Map Amendment is not consistent with the zoning regulations. ...

In addition to the key sequencing (“cart before the horse” – filing a Notice of Intent for a PUD and Map Amendment ..., the WECA questions whether ...”

2/21/06 WECA e-mail to OP Director Ellen McCarthy

From: Barbara Kahlow [mailto:barbara.kahlow@verizon.net]

Sent: Tuesday, February 21, 2006 5:33 PM

To: 'Ellen.McCarthy@dc.gov'

Cc: 'vnm3@earthlink.net'; 'M Thomas - ANC2A02'; 'Sara Maddux'

Subject: input for OP's report to ZC for its setdown consideration of GWU's recent filings

Ellen - On behalf of the West End Citizens Association (WECA), I am forwarding to you as Director of OP a 2/12/06 letter from the WECA to OZ asking OZ to return GWU's 2/6 Notice of Intent & its 2/16 filings (Special Exception application, Campus Plan application, & 1st Stage PUD & Zoning Map Amendment application) w/o further processing. GWU's 2/16 filings make multiple mentions of the need for OP to draft a Text Amendment to the rules governing campus plans. The WECA believes that this need is recognition that, under the current zoning rules, GWU cannot proceed w/o a change to them, as the WECA's 2/12 letter so indicates. As a consequence, the WECA believes that, until a Text Amendment is published for public comment, the Zoning Commission holds a hearing on the proposed text, & then the Text Amendment is published as a final rule, the Commission cannot setdown the case, hold a public hearing, etc. Please include a discussion of the WECA's analysis in OP's report to the Commission prior to its setdown consideration. ...”

3/27/06 The Plaza letter to OZ Director Jerrily Kress

“The Plaza believes that any public hearings or further consideration by the Zoning Commission are premature since changes in the City's zoning regulations for campus plans and PUDs are necessary first.”

4/10/06 OP Setdown Report (p. 20)

“Text Amendment

The second change that is necessary to accomplish the proposed [GWU] plan is a change to the existing language of Section 210.3 of the zoning regulations. ... There are currently no other university properties in the city with R-5-D or R-5-E zoning with the exception of two existing dorms on the Howard University campus zoned R-5-E.”

8/4/06 DC Register Zoning Commission Notice of Public Hearing on Text Amendment – College & University Regulations (53 DCR 6349)

“THIS CASE IS OF INTEREST TO ALL ADVISORY NEIGHBORHOOD COMMISSIONS ...

The case will be heard immediately prior to the hearing on ZC Cases 06-11 and 06-12”