

November 9, 2011

VIA HAND DELIVERY

Mr. Anthony Hood
Chairman, D.C. Zoning Commission
441 4th Street, NW, Suite 210
Washington, DC 20001

**Re: Z.C. Case No. 10-32 – Georgetown University Campus Plan
Motion to Strike November 8 Supplemental Submissions from
CAG/BCA and ANC 2E**

ZONING COMMISSION
District of Columbia

CASE NO. 10-32

EXHIBIT NO. 348

Dear Chairman Hood and Members of the Commission:

On November 8, 2011, the Citizens Association of Georgetown and Burleith Citizens Association (CAG/BCA) as well as Advisory Neighborhood Commission 2E (ANC 2E) both filed voluminous supplemental submissions. The University respectfully requests that the Zoning Commission not accept these materials into the record.

At the close of the June 6, 2011 public hearing, the Commission completed its receipt of testimony from parties and persons in opposition to the application, and stated that the remaining order would be **limited to**: (1) DDOT's report and cross-examination by the parties; (2) short presentations from the parties regarding the DDOT report only; and (3) the University's rebuttal and closing. See Tr. June 6, 2011 at 202-03. The Commission affirmed this order of procedure at the June 20, 2011 public hearing. See Tr. June 20, 2011 at 26 ("narrow the scope to just specifically transportation and transportation only and close the record just for parties to respond").

The University opposes inclusion of the November supplemental submissions of CAG/BCA and ANC 2E for the following reasons:

1. It is well established that parties to a zoning proceeding do not have the opportunity to present a sur-rebuttal or otherwise submit written evidence or present additional testimony in response to an applicant's rebuttal. See 11 DCMR § 3117.11(b).¹ On rebuttal, the Regulations limit the rights of the parties to cross-examination of the applicant on its rebuttal presentation—nothing more.

¹ Pursuant to Section 3035.5 of the Zoning Regulations, the Zoning Commission applies the Board of Zoning Adjustment Rules of Practice and Procedure in campus plan proceedings.

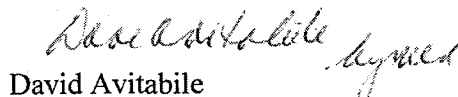
2. In this case, the Commission affirmed the order of procedure that would govern the remainder of the hearing, and specifically stated that evidentiary submissions from the parties would be limited to a "short" presentation on the DDOT Report. The University's rebuttal and closing would then follow these presentations under the "normal" order of procedure set forth in the Zoning Regulations.
3. Here, the University filed written materials on June 15 in advance of its rebuttal presentation. These materials were filed solely to provide the Commission and parties with an opportunity to review in advance of the University's rebuttal presentation at the hearing. Again, nothing in the Regulations or established practice gives the parties a right to respond to these written rebuttal materials.
4. Any response to the University's written rebuttal materials from the parties is premature, since the University has not yet actually presented its rebuttal presentation. To the extent that the Commission does permit the parties to respond to the University's rebuttal presentation, such a response will be narrowly limited to particular issues as directed by the Commission.
5. The admission of the supplemental submissions is prejudicial to the University, which does not have an opportunity to cross-examine the parties on the material or rebut the new evidence entered into the record.

For the foregoing reasons, we respectfully request that the November 8 supplemental submissions from CAG/BCA and ANC 2E be excluded from the record in the above-referenced matter. To the extent that the Commission permits the parties to respond to the University's rebuttal after it is presented at the public hearing, such response should be narrowly limited to specific issues raised in the University's rebuttal, and the parties should not be permitted to introduce new evidence into the record of this case.

Please feel free to contact Maureen (202-721-1101) or Dave (202-721-1137) with any questions regarding the above.

Sincerely,


Maureen Dwyer


David Avitabile

cc: Andrea Salley, Georgetown University

CERTIFICATE OF SERVICE

On November 9, 2011, I caused a copy of the foregoing letter to be delivered by hand, U.S. Mail, or electronic mail to the following:

Steve Mordfin
D.C. Office of Planning
1100 4th Street, SW, Suite E650
Washington, DC 20024

Colleen Hawkinson
District Department of Transportation
55 M Street SE
Washington, DC 20009

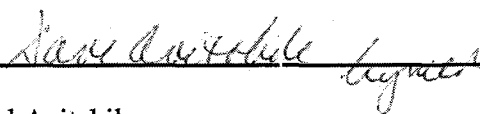
Advisory Neighborhood Commission 2E
c/o Ron Lewis
3400 Reservoir Road, NW
Washington, DC 20007

Advisory Neighborhood Commission 3D
c/o Ann Haas
1601 45th Street, NW
Washington, DC 20007

Richard Hinds
Counsel for Citizens Ass'n of Georgetown
2000 Pennsylvania Avenue, NW
Suite 9000
Washington, DC 20006

Foxhall Community Citizens Association
c/o Robert Avery, Board President
4442 Greenwich Parkway, NW
Washington, DC 20007

Christopher Clements
Counsel for Burleith Citizens Association
3600 Whitehaven Parkway, NW
Washington, DC 20007



David Avitabile