

**Thomas M. Smith
ANC Commissioner 3D02
4601 Tilden Street N.W.
Washington, D.C. 20016**

October 25, 2013

Mr. Anthony Hood, Chairman
DC Zoning Commission
441 4th Street NW
Suite 200-S
Washington, D.C. 20001

Re: Case No. 08-06A (Title 11, Zoning Regulations – Comprehensive Text Revisions, Subtitle X, Chapter 1 – Campus Plans And School Plans)

Dear Chairman Hood and Commissioners,

As the Commissioner for Advisory Neighborhood Commission (ANC) 3D02, I represent residents of Spring Valley who are located immediately adjacent to the American University (AU) main campus and the Washington College of Law (WCL) located in the Spring Valley commercial corridor – just three blocks from the main campus. The Wesley Theological Seminary also is located in 3D02 and immediately borders single-family residences in Spring Valley.

I also have been a resident of Spring Valley and active in my community for more than 30 years. In short, I understand the zoning rules on campus plans and, more importantly, I have some practical experience in what these rules mean to a residential community, like Spring Valley.

Spring Valley is unique in that no other community in our city – or for that matter in the nation – has been built over a World War I chemical munitions dump site. The presence of chemical weapons in our community can be traced to a decision made by AU nearly 100 years ago to make its campus available to the U.S. Department of Army to operate what was at the time the largest chemical weapons experiment station in the world.

Despite the challenges of dealing with such an issue, the campus plan rules have had a far more significant and longer-term impact on the quality of life in our community over the years. We have witnessed AU grow beyond its main campus borders purchasing both residential and commercial property in Spring Valley to enlarge its footprint. The expansion of the university has displaced neighborhood serving retail, medical offices, and other business services that had been available in the neighborhood. Even residential property is being purchased for university-related housing and meeting facilities.

People choose to live in a university community, like Spring Valley, for many reasons. In addition to wanting to live in this low density single family neighborhood, the university also offers many amenities for residents, including university facilities. Residents can use the university's track. Having access to a university library can be very helpful both for personal and business reasons. AU houses a small art gallery. Students often are our babysitters, rent rooms in our homes, or from time to time work side by side with us on a community clean-up project in the erosion-challenged Spring Valley Park.

However, there are also drawbacks to living adjacent to a university. Like any university community, we have had our share of experiences with unruly students and fraternity houses or excessive noise and trash. We have had to cope with parking issues in our neighborhood on a daily basis. And we have had to deal from time to time with unresponsive university administrators. We can work as a community to address these issues – even the traffic issues that have become so severe as to pose a serious risk to public safety for neighborhood residents, students, and commuters.

But, at the end of the day, we must rely on the Zoning Commission and its interpretation of the zoning rules on campus plans to limit the footprint of the university, so as not to encroach on our neighborhood and put at risk the quality of life that prompts many of us to want to stay in our homes. As the last AU campus plan proceeding demonstrated, the current zoning rules have not been successful in protecting our neighborhoods from the unchecked growth of the university.

The changes in the new campus plan rules (*Subtitle X, Chapter 1*), as proposed by the Office of Planning (OP), recognize the failures of the current rules. They are a good beginning, but fall far short of what is needed to secure the future of university neighborhoods, like Spring Valley – and far short of what we should expect as part of a major revision of the city’s zoning rules.

OP has outlined four objectives for the new rules (*Subsection 100.3*):

- To promote well-planned and designed educational campuses;
- To encourage long-term facilities planning for these uses;
- To minimize negative impacts of campuses on surrounding residential areas; and
- To provide consistency and transparency to the campus planning process.

These objectives are good on paper and can surely be embraced by anybody who has had any exposure to the campus plan process. But, a review of the proposed new rules raises the question: “Where’s the meat?” There is virtually nothing in the new rules that will establish a zoning process for campus plans that will achieve these objectives.

Nevertheless, OP should be applauded for some of the changes it is recommending. The most significant – and the most promising change – in the new rules is a requirement (*Section 102. Special Exception For Use Of Commercial Property By A College or University*) that would require colleges and universities to seek a special exception to use commercially-zoned property in new M-3 (formerly C-1) and M-4 (formerly C-2-A) zones for educational purposes. This is an important change that should help to check the matter-of-right rules that enable a university to displace existing neighborhood-serving retail in commercially-zoned buildings for new and expanded educational uses.

But, OP does not go far enough in addressing university ownership of commercial property in residential neighborhoods. Subsection 102.5 gives the applicant the option to include its use of commercial property in the campus plan. Subsection 102.6 gives the Zoning Commission the option to consider uses of commercial property as part of the campus plan review process. Neither should be optional.

In the neighboring Spring Valley and Wesley Heights neighborhoods, these commercial properties are only a few blocks from the main campus. Shuttle buses from the main campus serve those properties. There is a link between what happens in these commercially-zoned buildings and what happens on the main campus. There are parking and transportation impacts for the neighborhoods because they are sandwiched between the main campus and the extended campus facilities in neighborhood-serving commercial centers. The Zoning Commission cannot adequately assess the overall impact of the university's presence in the neighborhood if you are limiting your review of the university's facilities. The failure to consider these impacts is inherently unfair to residents living in the neighboring R-1 districts and counterproductive to achieving the objectives outlined by OP in Subsection 100.3 of the new rules.

These optional rules (*Subsection 102.5 and Subsection 102.6*) do little to promote consistency or transparency.

Likewise, the Zoning Commission needs to revisit its rules on 2nd stage Further Processings. The new rules propose no real change; yet, experience shows the current rules are severely flawed. The rules, as proposed (*Subsection 101.8*), would still enable a university to submit a 2nd stage Further Processing request at the same time as the 1st stage Campus Plan is submitted for review by the Zoning Commission. As a reminder, the AU Campus Plan proceedings included a campus plan and four separate Further Processings that were being held simultaneously for new building projects exceeding a total of 750,000 gross square feet. This is a significant amount of new construction for a low density residential neighborhood, like Spring Valley. On one major project that already has been approved for Further Processing, ground will not be broken for more than another year and the university already is talking about making significant changes to its building plans.

This seems almost antithetical to OP's objectives to achieve "long-term facilities planning" or "well planned campuses." Allowing 2nd stage Further Processings to run concurrently with the 1st stage Campus Plan review strains everybody's resources and abilities – residents, the ANC, and the Zoning Commission – and compromises the review and assessment of the potential

“negative impacts of campuses on surrounding residential areas,” as stressed in Subsection 100.3 of the new rules.

ANC 3D has suggested a simple change in Subsection 101.8 to address this issue. This change, which I embrace, would only allow a 2nd stage Further Processing application to be filed once the Zoning Commission has issued its Order in the Campus Plan case. This would create a more orderly, consistent, and transparent process while at the same time ensuring the type of review by the ANC and the Zoning Commission that residents have a right to expect.

OP should be acknowledged also for including some criteria in the new rules (*Subsection 101.3*) for locating commercial/retail uses incidental to a university. The new rules suggest that these uses be located as internally central to the campus as possible and that they shall not be objectionable to non-university residential neighbors. These are important additions to the campus plan rules. As you recall, a proposal for new student-serving retail immediately adjacent to residences was a major issue during the AU campus plan proceeding. We believe these rules provide good guidelines for review of commercial uses of the university-owned residentially-zoned property.

However, OP undoes its good work on the issue by specifying a ceiling – 10 percent of the gross floor area of the total campus plan floor area ratio – for such commercial uses on campus. For a campus, like AU, 10 percent could be excessive. Universities will be quick to argue the new rules provide a matter-of-right to this 10 percent. The commercial/retail uses of space by a college or university or private school on residentially-zoned land should be assessed by the Zoning Commission on a case-by-case basis, as is now the practice, and conditioned on whether the retail use has a demonstrated connection to university or school functions – and complies with the other standards outlined by OP in Chapter 1, Subsection 101 of the proposed new rules.

The campus plan process has proven to be highly contentious in recent cycles, particularly the last two AU campus plans. However, the recent Wesley Theological Seminary campus plan process serves as a model for how to avoid conflict. In that case, the school’s administrators worked cooperatively with residents on a consensus-driven approach. Both the Seminary and

residents made compromises throughout the process that were the product of hard work. Even with the best of zoning rules, it is precisely this spirit of cooperation, goodwill, and community that is key to providing the checks and balances that are needed in the campus plan process.

In the absence of such cooperation, goodwill, and community – which unfortunately occurs more often than not – the zoning rules are critical to ensure checks and balances in the campus plan process: (1) checks on university encroachment into the neighborhood, and (2) balances that plan for the growth that may be necessary for a university in today's higher education marketplace.

So, the campus plan rules are important. Yet, most residents of the neighborhood I represent had no idea that new rules were being proposed until August, 2013. Last January, OP Director Harriet Tregoning pledged in public meetings across this city that OP would delay rewriting the campus plan rules and would instead reach out to university neighborhoods before moving forward with any revisions of the campus plan rules. That has never happened.

These rules are a good start, but they are only a start. The campus plan rules need a top to bottom review that is the product of input from residents and university officials, alike. I hope you will encourage OP to engage specifically with university neighborhoods for a more intense assessment of the campus plan process with an eye to making even more changes in the rules that will ultimately have a chance of achieving the objectives outlined in Subsection 100.3.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Tom Smith". The signature is written in a cursive, flowing style.

Thomas M. Smith
ANC Commissioner 3D02