



MEMORANDUM

2010 FEB -2 PM 3: 23

TO: District of Columbia Zoning Commission

FROM: Jennifer Steingasser, ^{JS} Deputy Director for Development Review & Historic Preservation

DATE: February 2, 2010

SUBJECT: Zoning Commission Case Number 09-10, a Proposed Zoning Text Amendment to allow the establishment of a water tower on the Saint Elizabeths East Campus
Supplemental Report 2

The Office of Planning (OP), through the submission of this report, responds to the Zoning Commission's request to furnish draft text to provide for a Zoning Commission design review of the proposed WASA water tower on the Saint Elizabeths East Campus, which is unzoned. The Commission deferred taking proposed action in order for OP to formulate such text.

The advertised text included a proposed new section to be added to Chapter 32 of the Zoning Regulations. That chapter governs the administration and enforcement of the Zoning Regulations. The proposed new section would require the Zoning Administrator to wait a maximum of 30 days before clearing building permits for certain types of developments. The proposed WASA water tower was to be the first type of development to be governed by the section.

Since the Commission wants essentially a design review veto, the Office of Planning is withdrawing its request for proposed section 3206. Instead, it has drafted a new section to be added to Chapter 25, MISCELLANEOUS ZONING REQUIREMENTS. The proposed section is modeled after other provisions that call for Zoning Commission review. As a result, other conforming amendments will be required, which were provided by the Office of the Attorney General (OAG) as part of the December 14th meeting package. The only difference for this review process is that the application may be approved without a hearing, subject to the completion of the ANC review period. On December 14, the Commission received a letter from WASA requesting that the Commission take no action and give them time to review the text.

The text to accomplish the Zoning Commission review is as follows; except for the elimination of proposed section 3206 and a provision to waive the associated filing fees, no other substantive changes are needed to the advertised text. Since December 14, OP has had discussions with WASA representatives and proposes some minor changes to the text below. The advertized text is bolded; changes to the advertized text are bolded and underlined; new sections are bolded and highlighted in yellow.

2523 WATER TOWER ON THE EAST CAMPUS OF SAINT ELIZABETHS:

2523.1 Notwithstanding any other provision of this Title, a water tower or elevated water tank ("Water Tower") owned and operated by the District of Columbia Water and

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Sewer Authority may be established on unzoned property owned by the District of Columbia and located on the East Campus of Saint Elizabeths Hospital.

- 2523.2** No building permit to construct a Water Tower in excess of ninety (90) feet in height may be issued unless the Zoning Commission finds that said tower, as designed, meets the standards of § 3104 and is not inconsistent with the Comprehensive Plan, small area plan(s), and other adopted planning studies that pertain to the site.
- 2523.3** An application pursuant to Section 2523.2 shall include such plans and illustrations necessary to adequately represent the **final proposed** appearance of the tower, **including** its materials, **final** elevation, and location on the East Campus. The application shall also identify how the proposed design meet the standard for approval set forth in § 2523.2.
- 2523.4** An application shall be included as a “Final Action” item for a Zoning Commission meeting scheduled after the completion of the thirty (30) day review period allowed the affected ANC(s). **The notice to the affected ANC (s) shall include the date of ZC final action and a tentative public hearing date.**
- 2523.5** The only motion that can be made at that time is for approval of the application **in accordance with Section 3028 and without the need for a public hearing.**
- 2523.6** If no motion is made, or if the motion fails, the matter shall be moved to the “Hearing Actions” portion of the agenda, at which point the Commission may take any of the actions authorized by §§ 3011.3 through 3011.6.
- 2523.7** **A request to modify an approved designed shall be subject to the same review criteria and approval process as set forth in this section for the original application.**

The Office of Planning is suggesting the waiver of associated fees here due to the public nature of the request and its benefit to the residents of this service area.

3043 EXEMPTION FROM FEES

- 3043.1** The following persons or groups shall not be required to pay either a filing fee or hearing fee:
- (a) A department, office, or agency of the government of the District of Columbia, where the property is owned by **the District** or that agency **or is under their jurisdiction** and the property is to be used for a government building or use; and

The Office of Planning also included in the original setdown report and continues to recommend amendments to Chapter 32. ADMINISTRATION AND ENFORCEMENT, subsection 3202.3, so that the first sentence reads as follows:

- 3202.3** Except as provided in the building lot control regulations for Residence Districts in § 2516 and § 5 of An Act to amend an Act of Congress approved March 2, 1893, entitled "An Act to provide a permanent system of highways in that part of the District of

Columbia lying outside of cities," and for other purposes, approved June 28, 1898 (30 Stat. 519, 520, as amended; D.C. Code, 2001 Ed. § 9-101.05 (formerly codified at D.C. Code § 7-114 (1995 Repl.))), a building permit shall not be issued for the proposed erection, construction, or conversion of any principal structure, or for any addition to any principal structure, unless the land for the proposed erection, construction, or conversion has been divided so that each structure will be on a separate lot of record; except

- (a) ~~buildings~~ **Buildings** and structures related to a fixed right-of-way mass transit system approved by the Council of the District of Columbia ~~or~~
- (b) ~~the~~ **The** trapeze school and aerial performing arts center to be constructed pursuant to § 1804.7¹ **or**
- (c) **A water tower and related water utility facility on the Saint Elizabeths East Campus.**

After discussions with WASA and input from OAG, the following conforming change needed in the advertised text is to the proposed amendment to §§ 106.7, 3012.1 and 3027.4:

- 106.7 No building permit or certificate of occupancy shall be issued nor proceeding instituted before the Board of Zoning Adjustment, nor shall any property in private ownership be used for any purpose until after the Zoning Commission has designated zoning for the property, **except for the establishment of a water tower and related water utility facilities owned and operated by the D.C. Water And Sewer Authority (WASA) on the East Campus of the Saint Elizabeths site, subject to the requirements found in authorized by § 2523.**
- 3012.1 . . . As soon as an application requesting Zoning Commission review and approval pursuant to Chapter 16 or 18 **as well as Section 2523** of this Title is accepted for filing by the Director of the Office of Zoning, a copy of the application shall be referred to the D.C. Office of Planning and other appropriate agencies for review and comment. . . .
- 3027.4 The Commission need not take proposed action with respect to an application for Zoning Commission review and approval pursuant to Chapters 16 and 18 **as well as Section 2523** of this Title, but may take final action in accordance with § 3028, either at the close of the hearing, ~~or~~ at a subsequent public meeting or, **in the case of an application pursuant to Section 2523, at the initial public meeting regarding the application.**

JS/ayj
Arlova Jackson, Case Manager

¹ The trapeze school is case number ZC 09-09 pending before the Zoning Commission with a hearing expected this fall.