



GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADVISORY NEIGHBORHOOD COMMISSION 3D

**PO Box 40486, Palisades Station
Washington, DC 20016**

**PALISADES – KENT - SPRING VALLEY - WESLEY HEIGHTS - NEW MEXICO/CATHEDRAL –
THE AMERICAN UNIVERSITY - FOXHALL VILLAGE - BERKELEY**

October 15, 2015

VIA EMAIL

Chairman Anthony Hood
District of Columbia Zoning Commission
441 4th Street, NW, Suite 210-S
Washington, DC 20001
zcsubmissions@dc.gov

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**Re: ZC Case No. 11-07E – Request for a Minor Modification to an Approved
Campus Plan Further Processing Application – Proposed Revisions to
Permitted Construction Hours to Allow Work on Saturdays**

Dear Chairman Hood and Members of the Zoning Commission:

This letter is in response to the October 14, 2015, filing submitted on behalf of American University. In its decision to approve the American University Campus Plan for the period from 2011-2021 and the Further Processing, ZC Case No. 11-07, dated May 12, 2012, the Zoning Commission took great care in creating 41 Conditions with subsections to ensure enforceability and to mitigate objectionable conditions.

AU is seeking now for a second time to modify Condition 41. The basis for Condition 41 – “to mitigate any adverse impact on adjacent properties resulting from construction activity related to the development of the East Campus” – is clear in its intent.

On August 24, 2015, Order No. 11-07D was signed, under which the Commission – with strong support from ANC 3D and affected neighbors – granted a modification based on the University’s best estimate for making up lost construction time (50 days) due to weather conditions and allowing Saturday work to occur upon notification of the immediate neighbors.

Additional work days (33 days) have been lost since that modification was granted, according to AU's project management team, and the University is again back at the table with another modification request. Unfortunately, weather is not predictable and nothing in the zoning regulations can change that very basic reality.

The University also has asked the Zoning Commission to make a decision without input from the community. This seems in direct conflict with the purpose of Condition 41. How can the Zoning Commission consider this request in isolation and without input from the individual members of the community when these individuals stand to be impacted by the very objectionable conditions the Commission sought to avoid when it created Condition 41?

The University's letter of October 14 appears to direct the Zoning Commission to grant the modification request to enable the University to maintain its construction schedule on the East Campus without consideration of community input – or without a review of evidence. Instead, AU asks the Zoning Commission to accept without question and rely solely on the “expertise of AU's internal project management and their general contractor.” The ANC's due diligence showed inconsistencies in the information that AU's project management team could not address. This is why ANC 3D concluded that a hearing before the Zoning Commission was appropriate, but also necessary to determine the facts in this case

ANC 3D encourages the Commission to consider the value of obtaining input from affected residents – many of whom are excluded from participating in this case directly because it is on the Commission's consent calendar. Condition 41 was meant to protect individual members of the community from objectionable conditions in the original Order. They should have an opportunity to speak to the Commission directly and share their experience and “expertise” as evidence with the Commission before the case is decided.

In conclusion, ANC 3D stresses yet again that a hearing is necessary to allow the Zoning Commission to balance the needs of the University with those of the community; and, to allow the Zoning Commission an opportunity for consideration of an alternative modification to the Order which may not rely on the uncertainty of Mother Nature.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Smith", written in a cursive style.

Thomas M. Smith
Chair, ANC 3D

CERTIFICATE OF SERVICE

I hereby certify that copies of the attached letter were delivered on October 16, 2015 to the following:

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