

GOVERNMENT OF THE DISTRICT OF COLUMBIA
ZONING COMMISSION

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Z.C. CASE NO.: 02-20
PUBLIC HEARING
(THE CATHOLIC UNIVERSITY OF AMERICA)

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THURSDAY
SEPTEMBER 19, 2002

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The Zoning Commission met at 6:30 p.m. in the Office of Zoning Hearing Room, Suite 220, 441 Fourth Street, N.W., Washington, D.C. 20001, pursuant to notice, at 9:30 a.m., Carol Mitten, Chairperson, presiding.

BOARD MEMBERS PRESENT:

| | |
|----------------|--------------|
| Carol Mitten | Chairperson |
| James Hannaham | Commissioner |
| John Parsons | Commissioner |
| Anthony Hood | Commissioner |

STAFF PRESENT:

Alberto Bastida

P-R-O-C-E-E-D-I-N-G-S

6:32 p.m.

CHAIRPERSON MITTEN: Good evening, ladies and gentlemen. This is a public hearing of the Zoning Commission of the District of Columbia for Thursday, September 20, 2002. My name is Carol Mitten and joining me this evening are Vice Chairman Anthony Hood and Commissioner John Parsons.

The subject of this evening's hearing is Zoning Commission 02-20, this is a request by the Catholic University of America for special exemption review and approval of a new campus plan in the R-4/R-5A and CM1 zone districts pursuant to sections 210 and 304 of the District of Columbia Zoning Regulations 11 DCMR.

Notice of today's hearing was published in the D.C. Register on May 24, 2002 and in the Washington Times on August 2, 2002.

This hearing will be conducted in accordance with the provisions of aa DCMR Section 3104, which are the BZA procedures for special exemptions.

Copies of the hearing announcement are available to you and are located near the door. Well, I see they are not, but Mr. Bastida maybe has any

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1 hearing announcement, copies of those.

2 The order of procedure will be as
3 follows: Preliminary matters followed by the
4 applicant's case, report of the Office of Planning,
5 reports of other government agencies, report of the
6 Advisory Neighborhood Commission, parties and persons
7 in support, parties and persons in opposition. And
8 finally rebuttal by the applicant.

9 The following time constraints will be
10 maintained in this hearing. The applicant will have
11 one hour for their presentation, parties will have
12 15 minutes, organizations will have 5 minutes and
13 individuals will have 3 minutes.

14 The Commission intends to maintain these
15 time limits as strictly as possible in order to hear
16 the case in a reasonable period of time. The
17 Commission reserves the right to change the time
18 limits for presentations if necessary, and notice
19 that no time shall be seeded.

20 Parties may at anytime object to any
21 question posed to a witness by another party or to
22 evidence sought to be introduced into the record if
23 it is irrelevant, immaterial or unduly repetitious.
24 The Commissioners as well may request that such
25 testimony or evidence not be received or that such

1 evidence be stricken from the record.

2 All persons appearing before the
3 Commission are to fill out two witness cards. These
4 cards are located on the table near the door. Upon
5 coming forward to speak to the Commission, please
6 give both cards to the reporter who is sitting to our
7 right.

8 The decision of the Commission in this
9 case must be based exclusively on the public record.
10 To avoid any appearance to the contrary, the
11 Commission requests that persons present not engage
12 the members of the Commission in conversation during
13 a recess or at any other time. Staff will be
14 available throughout the hearing to discuss
15 procedural questions and you can direct any questions
16 to Mr. Bastida.

17 Please turn off all beepers and
18 cellphones at this time so as not to disrupt these
19 proceedings.

20 At this time the Commission will consider
21 any preliminary matters.

22 Mr. Bastida, do we have any preliminary
23 matters?

24 MR. BASTIDA: Yes, Madam Chairman. The
25 applicant has verbally requested because of the

1 reason for a postpone of this hearing and the
2 applicant is here to address it verbally.

3 CHAIRPERSON MITTEN: Thank you.

4 Good evening, Ms. Prince.

5 MS. PRINCE: Good evening, Chairperson
6 Mitten and members of the Commission. My name is
7 Allison Prince with the law firm of Shaw Pittman. I'm
8 here today with Sue Pervi, Vice President with
9 Catholic University of America.

10 In light of recent events where here to
11 request a postpone of the hearing. We've been
12 working on the campus plan process since November of
13 2000 and we've spent considerable time and expense
14 addressing any issues that have arisen throughout the
15 planning process. As our filing indicates, our
16 community outreach has been extensive. In addition
17 we've been in regular communication with the Office
18 of Planning throughout the planning process and long
19 before we filed the plan.

20 We appreciate the attendance of Office of
21 Planning, staff and four of the planning sessions
22 with the community in October and November of 2001,
23 several month months before we filed the plan. We had
24 a large team meeting with Office of Planning staff as
25 early as February 2002, 2 months before we filed the

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1 plan.

2 We believed until Tuesday of this week
3 that we were well prepared to go forward with the
4 case tonight. However, the Office of Planning just
5 two days ago filed a partial report that presents
6 several issues, issues that we thought we had
7 addressed. The report defers to a later supplemental
8 report which addresses two very significant issues;
9 housing and historic preservation. As of the day
10 before the hearing that supplemental report had not
11 been filed. Instead, we were presented with an oral
12 request for additional information.

13 In light of this very late and incomplete
14 initial filing, and lack of supplemental filing,
15 variance to the Catholic University has been and will
16 be compromised if the hearing is required to take
17 place tonight. These issues permeate every facet of
18 our presentation, every witness' testimony is
19 effected by these issues.

20 The additional time that a postpone will
21 allow will allow us to address these issues
22 effectively and efficiently rather than take up the
23 Commission's resources. We're optimistic that after
24 discussion our plan will be supported by the Office
25 of Planning.

1 We are disappointed to find ourselves
2 unable to go forward tonight. We have never found
3 ourselves in this position. We've invested
4 considerable time and expense in this hearing. We had
5 a lengthy dress rehearsal just last week on Thursday.
6 We've posted 47 signs around the neighborhood and
7 maintained them diligently. We filed all our
8 submissions timely and we've invested considerable
9 other resources as well. We've taken this process
10 very seriously. We've been pro-active every step of
11 the way and avoided at all costs any need for a last
12 minute overhaul of the plan. This plan was produced
13 with months of effort. An overhaul of the plan in the
14 final 24 hours is not in anyone's interests.

15 The Catholic University of America has
16 enjoyed a good relationship with the community for
17 every single further processing application that it
18 has filed since the approval of the 1989 plan. This
19 particular campus plan is really a status quo plan.
20 We've not increased the boundaries, we're not asking
21 for an increase in student population count. It's
22 basically a maintenance plan.

23 There has been a decline in enrollment
24 since the time I was here before -- well, the Board
25 actually, on the last plan in 1989. There's been a

1 decline in enrollment since I attended Catholic
2 University in 1983. The university is trying to
3 achieve the enrollment that in had in 1989. In light
4 of this history we did not expect any significant
5 issues.

6 Nevertheless, we need the opportunity to
7 determine and respond to the recommendations from the
8 Office of Planning. We could not in a matter of a
9 day and a half react to these issues. We must make
10 sure that the final plan is one that will serve the
11 university and the community for the next decade.
12 Therefore, we respectfully request that you postpone
13 this hearing until such time as the Office of
14 Planning produces its recommendations and Catholic
15 University can adequately address any issues in its
16 report.

17 We've contacted both ANC 5C and 5A in an
18 effort to save them from having to come to the
19 hearing tonight in the event that you decide to
20 proceed with the postpone.

21 Finally, I'd like to note you may have
22 noted from the records in the file there's been quite
23 an impasse with our neighboring ANC, ANC 5A, which
24 was the ANC in which the campus was located in 1989
25 but is no longer the ANC. ANC 5C is the subject ANC.

1 We view this postpone as an opportunity
2 for the Commission to direct if possible, or
3 certainly request the ANC to allow us to meet with
4 them. We have not been able to meet with ANC 5A and
5 we think we can really make something good of this
6 delay if we can reach out to 5A and have a dialogue
7 with our adjacent ANC as well as our subject ANC,
8 which supports the application.

9 That's all I would like to say unless Sue
10 would like to make some comments to the Commission.

11 CHAIRPERSON MITTEN: All right. Thank
12 you.

13 Do we have a sense of how much time we
14 need to resolve the issues from the Office of
15 Planning with respect to how much it will need? I'm
16 sure you want to postpone this to a specific date.

17 MS. MCCARTHY: Madam Chair, our
18 understanding that the first available hearing date
19 was February, and we felt that -- we could definitely
20 resolve the issues and have reports in in sufficient
21 time before that time to be able to proceed without
22 any problem.

23 CHAIRPERSON MITTEN: All right. We're as
24 disappointed as you are that we can't proceed
25 tonight. The Commission was prepared to go forward,

1 but the additional time will produce an even better
2 result, then we endorse that.

3 In terms of ANC 5A, one thing I would
4 like to get done tonight before we -- or I guess we
5 can decide on the postpone and then do party status,
6 or how can we --

7 MR. BASTIDA: I would prefer that you do
8 party status and then you do --

9 CHAIRPERSON MITTEN: Okay. I would like
10 to get that settled tonight.

11 MR. BASTIDA: And I would like, if it is
12 okay with you, to have it postponed to a date certain
13 on February 2003.

14 CHAIRPERSON MITTEN: And you have a date
15 in mind?

16 MR. BASTIDA: Yes, I do. I have discussed
17 with the applicant also.

18 CHAIRPERSON MITTEN: All right. All
19 right. Although we can't direct them to meet with
20 you, I find it just really inappropriate that they
21 would ever not meet with anyone who had something so
22 significant pending in their area. So, I don't know
23 what could be done in terms of intervention by, you
24 know, someone in the government. But certainly --

25 MS. PRINCE: Well, Mrs. McCarthy actually

1 offered that earlier and I welcome that offer.

2 CHAIRPERSON MITTEN: Well, I think you
3 have a legitimate request for party status. You
4 know, it's frustrating if someone wants to be a party
5 and then yet refuses to engage in conversation.

6 So, with that, will you turn on your
7 microphone.

8 MR. BASTIDA: Madam Chairman, could I at
9 the time of the September -- of the February meeting,
10 part of the university campus plan will be in 5C.
11 Accordingly, they will --

12 MS. PRINCE: 5A.

13 MR. BASTIDA: Five -- I mean, 5A.

14 MS. PRINCE: Right.

15 MR. BASTIDA: 5A will be automatically a
16 party to the proceedings.

17 MS. PRINCE: The new maps go into effect
18 January 1.

19 MR. BASTIDA: Right.

20 CHAIRPERSON MITTEN: Okay.

21 MS. PRINCE: And the entire athletic
22 center will move into 5A. Our campus will once again
23 be split among two ANCs.

24 CHAIRPERSON MITTEN: Okay. So we don't
25 really need to take any action on that request then.

1 MS. PRINCE: Okay.

2 MR. BASTIDA: Correct, Madam Chairman.

3 CHAIRPERSON MITTEN: All right.

4 MR. BASTIDA: Your interpretation is
5 correct.

6 CHAIRPERSON MITTEN: All right. Then
7 we'll just make it clear to everyone that we did
8 consider party status and we will not entertain any
9 other request for party status for the continued
10 date.

11 All right. So I guess we're ready to take
12 up the issue of postpone, and what's the date that
13 we're talking about?

14 MR. BASTIDA: It would be welcome 2003.
15 February 17 at 2003 at 6:30 in this hearing room.

16 CHAIRPERSON MITTEN: All right. So we
17 have a request from the applicant to postpone this
18 hearing this evening under Monday, February 17, 2003.
19 And it will be so moved.

20 VICE CHAIRMAN HOOD: I'll second.

21 CHAIRPERSON MITTEN: Is there any
22 discussion?

23 All those in favor -- oh, I'm sorry.

24 MR. PARSONS: Only that we set up 2 or 3
25 names --

1 CHAIRPERSON MITTEN: You told the big
2 secret that we have, which is that we have additional
3 days tucked away.

4 MR. PARSONS: Oh, I'm sorry. It's now
5 open. The presumption of the Commission was this
6 would not be accomplished in one evening, that's what
7 I meant.

8 MR. BASTIDA: That is correct.

9 MR. PARSONS: We really have to set it
10 down thinking we'll set it down for a second day.
11 That's something we can do at a later time, that's
12 fine.

13 MR. BASTIDA: Usually the Commission when
14 they decide that they need additional time at the
15 time of that time during the hearing process is --
16 makes a decision to set it for a specific day for the
17 continuation. And the staff likes to foresee those
18 circumstances when it appears that further hearings
19 are necessary.

20 CHAIRPERSON MITTEN: We will do our best
21 to get done on the 17th. So let's --

22 MS. PRINCE: I actually -- I mean I think
23 that's a realistic possibility.

24 CHAIRPERSON MITTEN: Well, we don't have
25 parties in opposition, so that should be easy to

1 accomplish. We have all the confidence in the world
2 that that's the way it's going to go. All right.

3 MS. PRINCE: I have a question about
4 public notice, R-47 signs.

5 CHAIRPERSON MITTEN: Can we just take the
6 vote first and then we'll deal with that. Is there
7 any further discussion? All those in favor of the
8 postponement, please say aye.

9 ALL: Aye.

10 CHAIRPERSON MITTEN: Those opposed please
11 say no.

12 Mr. Bastida, would you report the vote,
13 please?

14 MR. BASTIDA: The vote was recorded four
15 to zero to one. Ms. Mitten moving it, Mr. Hood
16 seconded it, Mr. Parsons and Mr. Hannaham voted in
17 the affirmative. Commissioner May not voting, not
18 being present.

19 CHAIRPERSON MITTEN: Thank you.

20 Now, the question.

21 MS. PRINCE: As you know, the rules
22 require that we simply maintain the current signs to
23 this hearing date and that once postponed, the
24 presumption is that anyone was interested in the
25 hearing would know about it and we don't need to

1 repost.

2 I would like to volunteer to report. I
3 find that the state of the world results in a lot of
4 confusion. So I would like to take down the old signs
5 and put up new signs within the requisite 15 days
6 time period so notice issue. After going through
7 that kind of postponement, I don't want to have
8 notice problem.

9 CHAIRPERSON MITTEN: Let me just ask you,
10 does the sign -- because I've seen the signs but I
11 haven't really read the signs -- do they say anything
12 about people wanting to request party status?

13 MS. PRINCE: Whatever the signs are
14 supposed to say. I've only seen them for 20 years, I
15 don't know what they say.

16 CHAIRPERSON MITTEN: But if there's
17 anything like that, I would want them to be
18 eliminated so that there's not --

19 MS. PRINCE: Oh, I see.

20 CHAIRPERSON MITTEN: That's why I'm
21 asking. I don't want anybody to think that they come
22 in.

23 MS. PRINCE: Great.

24 CHAIRPERSON MITTEN: All right. Is there
25 anything else?

1 MS. PRINCE: Thank you.

2 CHAIRPERSON MITTEN: Thank you very much.
3 Anything else, Mr. Bastida?

4 MR. BASTIDA: The staff has no other
5 matters preliminaries or otherwise.

6 CHAIRPERSON MITTEN: Okay. Very well.

7 And I thank everyone who came down this
8 evening. And, again, we will reconvene this hearing
9 on February 17, 2003, 6:30 in this room. This
10 hearing is adjourned.

11 (Whereupon, the hearing was adjourned at
12 6:47 p.m.)

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