Government of the District of Columbia

ZONING COMMISSION

ZONING COMMISSION ORDER NO. 610
Case No. 86-11
(Text Amendment - Campus Plans)
August 7, 1989

On May 12, 1986, the Zoning Commission for the District of Columbia initiated action to consider whether to amend the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning, regarding the transfer of campus plan review authority from the Board of Zoning Adjustment (BZA) to the Zoning Commission.

At that same meeting, the Zoning Commission referred the case to the District of Columbia Office of Planning to study the issue and make a recommendation on the question of whether the Commission should authorize a public hearing on the matter.

Subsequent to the publication of a notice of filing in the D.C. Register, the Zoning Commission received letters from Councilmembers James E. Nathanson, Betty Ann Kane, and Harry L. Thomas, and Council Chairman David A. Clarke in support of scheduling public hearings and proceeding with the transfer of authority. The Commission also received numerous letters in support from various organizations and individuals.

Proponents of transferring the campus plan review authority base their position, in large part, on Section 1116 (11) of the Lane Use Element of the Comprehensive Plan for the National Capital, which reads as follows:

> "Support modification of the Zoning Regulations of the District of Columbia to require Zoning Commission for the District of Columbia approval of college and university master plans and subsequent review and further processing with opportunity for citizens participation, in order to allow for more efficient review of plans and proposals while reducing adverse neighborhood impacts and alleviating uncertainty over future institutional activities; "

It is the position of the proponents that the Comprehensive Plan requires the zoning not be inconsistent with the Plan and that the transfer of campus plan authority is required.

On July 1, 1987, Neighbors for a Livable Community (NLC), Inc. filed a motion for adoption on an expedited bases, or, in the alternative, expedited consideration of proposed text amendments pertaining to college and university master plans. Several letters from organizations and individuals were also received in support of the NLC motion.

On July 13, 1987, at its regular monthly meeting, the Commission considered the NLC motion, a letter dated July 10, 1987 from the law firm of Wilkes, Artis, Hedrick and Lane opposing the NLC motion, a letter dated July 13, 1987 from the law firm of Linowes & Blocher also opposing the NLC motion, and other correspondence opposing and supporting the motion.

At that same meeting, the Commission determined that no emergency existed and that emergency rulemaking was not required or justified in the case. The Commission believed that it should follow a course which would allow it to give the issues in the case the careful consideration which were needed.

The Commission accordingly determined instead to follow a responsible expedited schedule in this case, and requested the Director of the Office of Planning to conduct a workshop with persons interested in Campus Plan regulations, in order to identify the issues and concerns which the Commission will need to respond to in its consideration of the case.

By memorandum dated December 11, 1987, the Office of Planning reported on the status of its involvement with interested organizations, individuals, and representatives of colleges and universities. OP identified the following significant findings:

a. Participants were nearly unanimous in the opinion that better guidelines or standards were necessary to improve the processing of campus plans and campus development;

b. Most college and university representatives expressed the need to maintain some degree of flexibility in official campus plans, or in order to meet changing circumstances over the life of an approved campus plan;

c. Nearly all citizen representatives expressed the concern that impacts which result from college and university activities can have serious detrimental effects on nearby residential communities;

d. Citizens were desirous of being more involved in the campus plan process and of being better informed by colleges and universities about campus development;

e. It was evident to OP staff members that, in general, colleges and universities involved citizens to a greater degree than in the past;

f. A variety of opinions were expressed regarding the appropriate forum for campus plan review, approval, and "further processing" procedures. Overall, the college and university spokespersons felt that the current process was preferable while citizen representatives believed, in general, that the Zoning Commission is the more appropriate forum; and

g. The duration of life of a campus plan also emerged as an important issue. The college and university representatives generally believe that a 10 year or longer span is appropriate. Citizens generally believe that 10 years or less is appropriate.

It appeared evident to OP staff that the desire for improved guidelines and/or standards in the zoning process emerged as a significant issue, although expressed in a variety of ways. The lack of adequate guidelines or standards in the Zoning Regulations has resulted in one very clear area of confusion; that is, the distinction between a long range, generalized campus plan development program and the review of specific development projects. Under present regulations, no distinction is made between these two very different activities. This is not to imply that the Board of Zoning Adjustment does not distinguish between the two, for the Board in hearing campus plan matters clearly does. The Zoning Regulations, however, do not clearly distinguish between a campus plan review and a campus development review in a regulatory fashion.

OP, by memoranda dated October 13 & 17, 1989, reported that the current regulations are adequate and recommended that the jurisdiction for campus plan review and approval remain with the BZA. OP stated the following:

> "It is our view that the Board of Zoning Adjustment has discharged its responsibilities well in both areas. As a practical matter, both the Office of Planning and the Zoning Commission are now involved in the implementation of the Comprehensive Plan. This activity is likely to involve an increasing caseload for the Commission of complex and controversial issues which will occupy an increasing amount of the Commission's time. The Office of Planning, therefore, recommends that the jurisdiction for campus plan review

and approval remain with the Board of Zoning Adjustment."

On January 9, 1989, at its regular monthly meeting, the Zoning Commission considered the issue of whether it would authorized a public hearing for the case. At that same meeting the Commission considered a memorandum dated December 23, 1988 from the OP recommending that the case be dismissed without hearing.

The Director of the Office of Planning informed the Commission that it would, through the Executive Branch, request the Council of the District of Columbia to change Section 1116 (11) of the Land Use Element of the Comprehensive Plan, to provide for the BZA to continue review authority for campus plans.

The Commission concurs with the recommendation of OP, particularly in light of OP's intent to initiate and support a change of the Land Use Element provisions of the Comprehensive Plan.

The Commission is mindful of the current interpretation of Section 1116 (11) and believes that it was not the intent of the City Council to suggest that review authority for campus plans is not adequately being processed by the BZA and that the Zoning Commission should replace the BZA to provide for better review processing.

The Commission is also mindful of its own caseload of area-wide Comprehensive Plan zoning initiatives and believes that the District of Columbia is better served by not changing the existing process.

The Zoning Commission believes that this case is not in the best interest of the District of Columbia, is inconsistent with the intent and purpose of the Zoning Map and Zoning Act, and is not required to fulfill the intent of the Comprehensive Plan for the National Capital.

The Commission concludes that there is insufficient merit to warrant a public hearing for this case.

Upon consideration of the reasons set forth herein, the Zoning Commission hereby orders that Case No. 86-11 be DISMISSED.

Vote of the Zoning Commission taken at the public meeting on January 9, 1989: 5-0 (Lindsley Williams, Lloyd D. Smith, and Maybelle Taylor Bennett, to dismiss, and Elliott Carroll and John G. Parsons, to dismiss by absentee vote).

This order was adopted by the Zoning Commission at the public meeting on August 7, 1989 by a vote of 3-0 (John G. Parsons, Lloyd D. Smith and Maybelle Taylor Bennett, to adopt as amended - George M. White, not present not voting and Tersh Boasberg, not voting not having participated in the case).

In accordance with the provisions of 11 DCMR 3028, thIS order is final and effective upon publication in the D.C. Register; that is, on AUG 18 1989.

Maybelle Taylor Bennett
MAYBELLE TAYLOR BENNETT
Chairperson
Zoning Commission

EWARD L. CURRY
Executive Director
Zoning Secretariat

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