

Lawyer Argues West University Team ‘Substantially Complied’ With City Charter

A West University News item, April 20, 2012, Ford Burkhart

The trial over the petitions rejected by the city recessed Friday, almost seven hours after it began in Superior Court. The judge said he would rule by Tuesday or perhaps Wednesday. It seemed to come down to whether “substantial” compliance with city provisions for such petitions was sufficient or if “strict” compliance, under state law, was needed. The parallel process over building heights and historic preservation in the Speedway/Euclid block will unfold Wednesday night at a zoning examiner hearing which will lead to recommendations to go to the city council the next week. That process concerns the new zoning, called an overlay, that will allow taller buildings in the Main Gate District portion of the West University national historic zone.

William Risner, the lawyer for the WU petitions group, called “No Way Overlay,” spent the day building a case for strenuous efforts toward compliance on the anti-overlay petitions that were rejected by the city on the basis of format technicalities. He argued that the petitions, with 11,000 signatures of voters, were valid based on substantial compliance and should go to the city clerk, who in turn would pass them to the county recorder’s office for review. “This is a basic fundamental right of basic legislative authority,” Risner said. “Our people have done an admirable job of training the volunteers and working with the city, and they have substantially complied with the charter.” Judge Richard Gordon said he will not make his decision before Tuesday. “I will try to get it out by Wednesday, maybe Tuesday,” he said.

In the case, two signers of the petition, David Devine and David Boston, sued City Clerk Roger Randolph to force him to accept the petitions and send them to Pima County to assess whether there are enough to force an election on the Nov. 6 ballot. All three were in court. Randolph was represented by Dennis McLaughlin, principal assistant city attorney. He pointed out several items that were missing from part of the WU petitions, and assigned full responsibility to the organizers. “We always circle back to strict compliance. That’s the way it is,” he said. “Nothing else applies. They wrote their own petition.”

He admitted that the city clerk had made mistakes in the process. “We are stuck with that.” But he asked why several format items were missing from the petitions. “We just don’t know,” McLaughlin said. “That’s their problem. They have to comply strictly.” The city was supported by lawyers for a Chicago developer, Campus Acquisitions, which plans a 14-story student housing project in the overlay area and needs the zoning to take effect to begin construction.

Euclid/Speedway Block Design Wrap-up Set for April 25

A West University News item, April 23, 2012, Ford Burkhart

The city zoning examiner will hear a wrap-up and comments on Wednesday evening following two weeks of design talks on the Euclid/Speedway block, with a focus on building heights and the fate of several historic bungalows. The meeting will be at 6:30 p.m., April 25, at the council chambers.

City zoning examiner Linus Kafka will hear from Jonathan Mabry, the city's historic preservation officer, and Jim Mazzocco, the city's planning administrator, and from the public. Mazzocco said he is preparing a cover memo and a short summary of facts and basic information for the session with Kafka. In turn, Kafka will prepare a report to the mayor and council for their consideration on May 8. A large group, sometimes of up to 18 people including officials, developers, experts and representatives of the West University Neighborhood Association, met twice, on April 11 and April 18, as the Main Gate District Design Review Committee to discuss the block's future.

On April 18, the committee generally appeared to favor a scale of up to 14 stories on the block, to sharply increase density of student housing, along with the preservation of at least some of the one-story bungalows along Euclid Avenue. The four representatives of WUNA opposed the 14-story scale as too tall for the historic district, as did historic preservation advocates. The process for this single block began April 3 when the council carved it out of the larger Main Gate District's density-oriented rezoning, called an overlay. The goal was to see if any consensus could be reached on design of that one block. The rest of the overlay, for an area from Speedway to Sixth Street, and Park to Euclid, moved ahead. A court ruling is expected Tuesday or Wednesday of the fate of rejected petitions with more than 11,000 signatures calling for a city-wide vote on the entire overlay as part of the Nov. 6 ballot. Advocates for a proposed high-rise on the block, at Tyndall and First Street, the developer Bill Viner and property owner Steve Shenitzer, said at the April 18 forum that a 14-story scale was needed to make the project's finances work.