

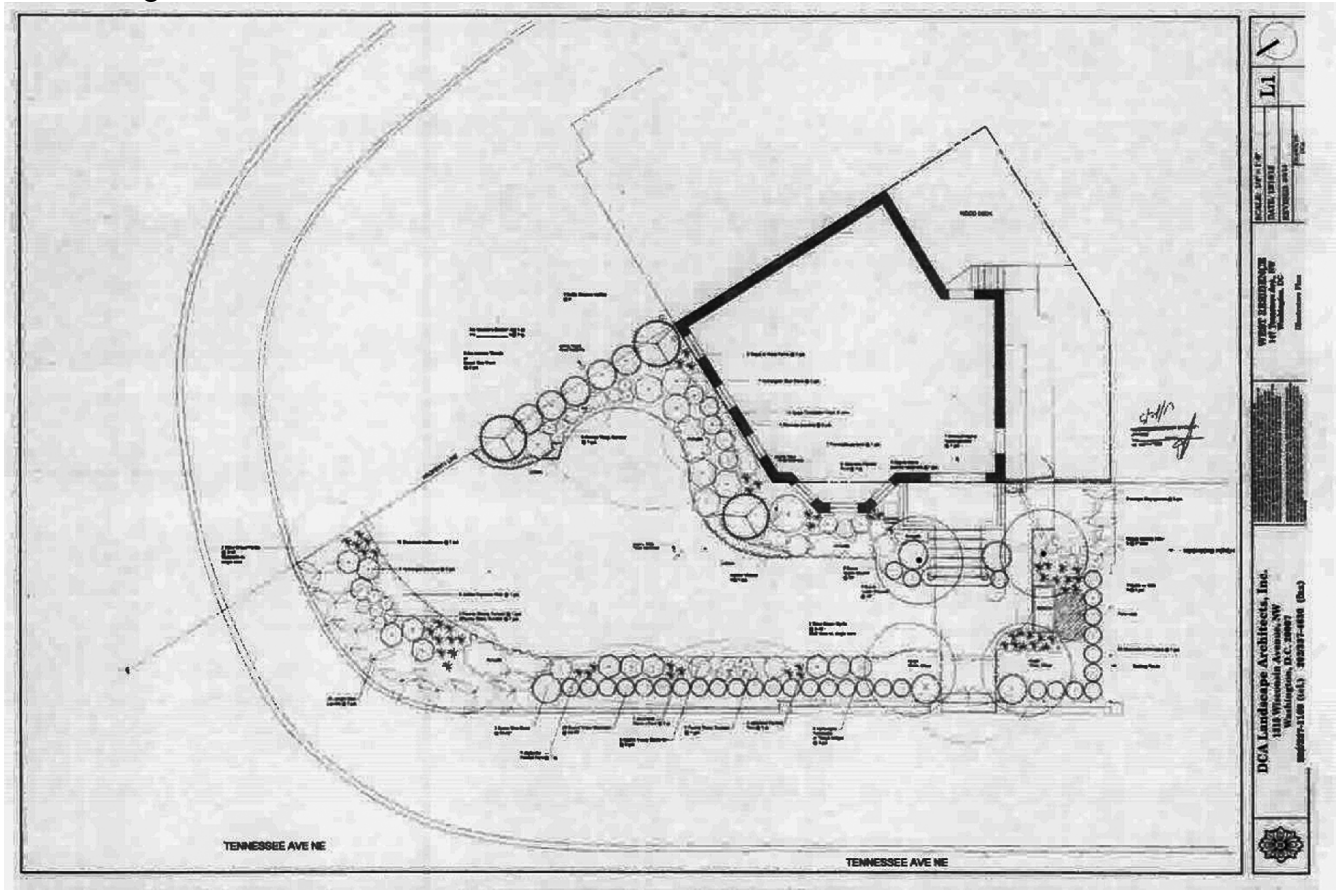
Protecting Public Space

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A Case of Pocket Park Improvements Gone Awry

By

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Landscape plan excerpted from West's Public Space Permit.

At a recent meeting of ANC 6A's Transportation Committee, Joyce West tearfully apologized for shooing away neighbors from a pocket park directly adjacent to her home. The park, the southern section of Federal Reservation 266, sits at the confluence of Tennessee Ave. and 13th St. SE.

In early 2013, West secured permission from the DC Department of Transportation (DDOT) to improve the "parked space" in front of her house at 147 Tennessee Ave. NE, and the section of the Reservation 266 abutting her property. Investing several thousand dollars in landscaping, she created a band of attractive flower beds along the edges of her front yard that continued around half the park's periphery. She also planted ornamental hedges behind the beds. West located more bushes in a large bed that stretched from the left side of her front steps along the wall of her home to the point where it

meets her neighbor house. She then extended this landscaping out into the center of the adjoining section of Reservation 266.



The park before West's improvements. Photo: Google Earth

West's landscaping now enclosed half of the pocket park. While retaining open egress from West's front yard, it limited public access to a small entrance at the parcel's center. "As I have told my neighbors, our vision for the space is to create and maintain a beautiful ornamental public flower garden for ALL to enjoy as they walk by—not a secret, hidden garden for our pleasure," wrote West and Mark Kadash, her husband, in a June 3rd letter to Councilmember Tommy Wells and Chief Public Space Enforcement Officer Elliot Garrett.

The result, while undeniably attractive, physically reconfigured the adjoining section of Reservation 266 into a private side yard. West and Kadash treated the parcel as such, repeatedly asking interlopers to vacate.

Lisa Turner, a neighbor, stated at a public meeting that West had ordered her off the park. Her daughter, she adds, had been asked to leave on a separate occasion. Others have confirmed this to be a pattern of behavior on the part of West and her husband.

"I was really bothered when I heard that the owner of the house yelled at some neighborhood friends of my daughter, who had been playing in the 'grassy meadow.' The owner apparently asked them how

they would feel if he began playing in their front yard. I argue that he should not have purchased a home next to a public park if he felt that way. I used to live next to a beautiful section of Rock Creek Park. Although I felt like it was my back yard, it certainly was not mine,” wrote neighbor Christine Mullins in an email to Wells.

“I do not have a recollection of this. It is conceivable,” West responded when asked by The Hill Rag about the policing of the park by her and her husband.

West, for her part, has collected many letters of community support for her improvements. For example, in a May 24th email to Wells' office, neighbor Cynthia wrote:

“I am highly supportive of the residents of 147 Tennessee Avenue's plans to make DC public space to the north of their home an ornamental flower garden as it is now designed. The design and new plantings have greatly improved the space and it is a major improvement for the neighborhood.”

Over the years, West insists, multiple District agencies had informed her of her responsibility for the care of the neighboring section of Reservation 266. However, she was unable to produce or cite specifically a single communication from the District when asked to do so by the Hill Rag.

Part of her rationale for the landscaping is that the city has not maintained the lot. “The city has not mowed or maintained the space since we have lived here,” stated West.

One might dismiss the whole dispute as a tempest in a teapot. However, Reservation 266 is one of many pocket parks that border the sides of private residences. Should a well-meaning neighbor be allowed to transform public land in a way that changes its community usage? How would residents react if a neighbor of Turtle Park across from Eastern Market declared it to be a private preserve?

Pocket Parks and “Parked” Public Space: A Confusing History

The District of Columbia controls a multitude of scattered and small parcels of land known as “pocket parks.” Most are a result of the diagonal streets designed by Pierre L’Enfant. Others are artifacts of early streetcar routes. Many are federally owned. There are 1,132 such parcels in DC.

Pocket parks and federal reservations are only one facet of the District’s special patrimony. L’Enfant’s 1791 plan created wide rights of way for the nation’s new capitol. East Capitol Street, for example, was envisioned as a garden boulevard lined with foreign embassies. However, the city’s subsequent growth to the west and north left his vision unrealized.

In 1870, Congress recognized the unlikelihood of many of these large rights of way ever being completely paved. The Parking Act allowed for a narrowing of the public thoroughfares by “parking” public land in front of homes. This moniker might be confusing to modern ears. The 19th century term “parking” referred to a street-scape composed of a series of miniature parks. At the end of the century, Congress explicitly awarded private property owners the right to use this public space as front and side yards to their properties.

Short open fences are permitted to define the parked public spaces, but limited to three feet in height. Bushes are limited to three feet; and forbidden to obscure vehicular or pedestrian visibility. The District polices vehicular parking, construction, trash, rodents and trees in the “parked” space. Historically, “parked land” excluded federally owned reservations or municipal parks. Differences between the two are clearly distinguished on the District’s Zoning Map.

In the case of U.S. Reservations, a number were transferred to the District with the advent of Home Rule in 1972; others during the administration of George W. Bush. The DC Department of Parks and Recreation (DPR) assumed responsibility for many of these parcels. Others were assigned to DDOT for transportation purposes. The rationale for this division remains obscure.

Reservation 266 was among the parcels transferred to the District’s jurisdiction in 1972. Three of its four sections of parcel are under the control of DPR (DPR1273). According to an official DPR map, the section next to West’s home is not among them. It falls under the purview of DDOT.

Public Space Permit Secured

DDOT is the primary District agency responsible for overseeing all public space outside of government buildings, school facilities and parks. The “parked” public space surrounding Capitol Hill homes falls under their administration. In late 2012, West applied to DDOT for a Public Space Permit to improve the “parked” property in front of her residence as well as half of the section of Reservation 266 that abutted her home. The application package included plans for fencing and a patio on this section of the Reservation.

According to the DDOT website, The Public Space Committee (PSC) meets monthly to review and render decisions on Public Space applications. The Committee is composed of representatives from various District agencies such as DDOT, DDOE, The Mayor’s Office and The Office of Planning. It is unclear whether West’s application ever went before the committee.

In any event, Amanda Molson, the PSC representative from HPO, flagged West’s initial application:

“GIS shows that the green area to the north (left) of the house is not public green space affiliated with this house. It is Reservation 266. Reservations are generally public parks under the jurisdiction and management of the National Park Service, with some having been transferred to the DC government ownership...The applicant’s plans show paving, planting, and fencing around federal/DC government property.”

She continued,

“If this is indeed a federal or city reservation, then HPO objects to the plan for work in this area.”

In January of 2013, the application was revised without a patio and with bushes replacing the fence. DDOT issued West a permit in March of 2013. The agency provided no notice of its action to Advisory Neighborhood Commission 6A.