

BEFORE THE ZONING COMMISSION OR
BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA

FORM 150 – MOTION FORM

THIS FORM IS FOR PARTIES ONLY. IF YOU ARE NOT A PARTY PLEASE FILE A
FORM 153 – REQUEST TO ACCEPT AN UNTIMELY FILING OR TO REOPEN THE RECORD.

Before completing this form, please review the instructions on the reverse side. Print or type all information unless otherwise indicated. All information must be completely filled out.

CASE NO.: 18857

Motion of: Applicant Petitioner Appellant Party Intervenor Other _____

PLEASE TAKE NOTICE, that the undersigned will bring a motion to:

Dismiss

Points and Authorities:

Please state each and every reason why the Zoning Commission (ZC) or Board of Zoning Adjustment (BZA) should grant your motion, including relevant references to the Zoning Regulations or Map and where appropriate a concise statement of material facts. If you are requesting the record be reopened, the document(s) that you are requesting the record to be reopened for must be submitted separately from this form. No substantive information should be included on this form.

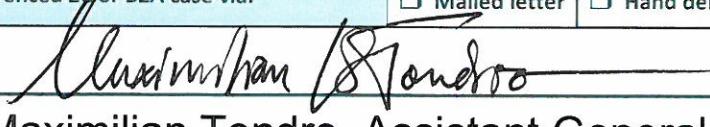
The appeal by ANC3D and Spring Valley-Wesley Heights Citizens Association (Appellants) of the Zoning Administrator's approval of Building Permit #FD1400058 is rendered moot by the decision of the Zoning Commission at their February 2, 2015 public meeting to approve the minor modifications that American University requested in Case 11-07C. The Zoning Commission approved the very same construction details that Appellants alleged the Zoning Administrator lacked the authority to approve. Since Appellants' central claim was that the Zoning Commission was the only entity with the authority to approve these construction details, and since the Zoning Commission has now approved these construction details, the Zoning Administrator's approval of the Building Permit #FD1400058 now is within his authority and valid. As a result, Appellants' appeal is moot and should be dismissed.

CERTIFICATE OF SERVICE

I hereby certify that on this **0** **6** day of **February** **Month**, **,** **2** **0** **1** **5** **Y**

I served a copy of the foregoing Motion to each Applicant, Petitioner, Appellant, Party, and/or Intervenor, and the Office of Planning

in the above-referenced ZC or BZA case via: Mailed letter Hand delivery E-Mail Other _____

Signature: 

Print Name: **Maximilian Tondro, Assistant General Counsel, DCRA**

Address: **1100 4th St, SW, 5th Floor, Washington, DC 20024**

Phone No.: **(202) 442-8403** E-Mail: **maximilian.tondro@dc.gov**

Board of Zoning Adjustment
District of Columbia
CASE NO.18857
EXHIBIT NO.30

DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT
441 4th Street, N.W., Suite 200S
Washington, D.C. 20001

Appeal of Advisory Neighborhood Commission 3D and
Spring Valley-Wesley Heights Citizens Association

Appeal No. 18857

MOTION OF THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
(“DCRA”) TO DISMISS APPEAL AS MOOT

Advisory Neighborhood Commission 3D (“ANC3D”) and Spring Valley-Wesley Heights Citizens Association (“SVWHCA” and collectively with ANC3D, “Appellants”) allege that the Zoning Administrator (“ZA”) erred in approving a building permit for renovations to the East Campus of American University (“AU”). Appellants alleged that the ZA lacked the authority to grant certain modifications, which Appellants asserted could be approved only by the Zoning Commission (“ZC”). The ZC has now approved these certain modifications challenged by Appellants. Therefore, the Board of Zoning Adjustment (“Board”) should dismiss Appellant’s appeal as moot.

FACTUAL BACKGROUND

AU applied on March 18, 2011 to the ZC for approval of AU’s All Campus Plan for 2011-2022 (“Campus Plan”) and East Campus Further Processing to an Approved Campus Plan (“East Campus Plan”) to construct six buildings on the East Campus. The ZC approved both the Campus and the East Campus Plans in Order 11-07, effective May 17, 2012.

Pursuant to Order 11-07, AU applied on January 14, 2014 for a foundation to grade building permit (#FD1400058) (“Permit”), which the ZA approved for zoning compliance on July 8, 2014.

ANC3D appealed the ZA's approval of the Permit on August 20, 2014, followed by SVWHC's appeal on September 10, 2014. Appellants alleged that the ZA lacked the authority to approve AU's permit application which proposed a two-story underground parking garage with no bus turn-around because plans included in the ZC record for Order 11-07 showed a single-story underground garage with a bus turn-around. Appellants argued that only the ZC had the authority to approve modifications to Order 11-07 and that AU therefore should have applied to the ZC for a minor modification.

On November 20, 2014, AU applied to the ZC for a minor modification to Order 11-07 to explicitly approve the two-story underground garage and removal of the underground bus turn-around. **Exhibit A**, AU November 20, 2014 application in ZC Case 11-07C. On December 8, 2014, the ZC scheduled a hearing on this application (Case 11-07C) for February 2, 2015.

On December 11, 2014, DCRA filed a motion with the Board to hold its decision in abeyance pending the outcome of the ZC's consideration of Case 11-07C at its February hearing. The Board, at its December 16, 2014 meeting, granted DCRA's motion to hold the Board's decision in this appeal until the ZC acted. **Exhibit B**, Transcript of Board's December 16, 2014 meeting.

At the February 2, 2015 public hearing, the ZC unanimously granted AU's application in Case 11-07C for a minor modification to Order 11-07 to explicitly permit the two-story underground garage with no bus turn-around. **Exhibit C**, February 2, 2015 email from ZC Secretary Schellin reporting ZC approval in Case 11-07C.¹

ARGUMENT

Appellants argued that AU's proposed two-story underground garage with no bus turn-around exceeded the ZA's authority and required approval by the ZC. Appellants specifically alleged that Order 11-07 only approved a single-story underground garage with a bus turn-around. Appellants asserted that AU should have to apply to the ZC to modify Order 11-07 to include the two-story garage with no bus turn-around.

¹ See also the video of the February 2, 2015 ZC meeting available at the DCOZ website at <http://view.earthchannel.com/PlayerController.aspx?PGD=dczoning&iID=2434>

AU did precisely as Appellants asserted that they should do. AU applied to the ZC for minor modifications to Order 11-07 to specifically approve the two issues raised by Appellants in this appeal - that the underground garage have two floors and no bus turn-around.

The ZC considered AU's application for a minor modification at a public meeting and approved it unanimously.

CONCLUSION

DCRA therefore requests that the Board dismiss this appeal as moot.

Respectfully submitted,

CHARLES THOMAS
Interim General Counsel
Department of Consumer and Regulatory Affairs

Date: 2/6/2015


Maximilian Tondro*
Assistant General Counsel
Office of General Counsel
Department of Consumer and Regulatory Affairs
1100 4th Street, S.W., Suite 5266
Washington, D.C. 20024
(202) 442-8403 (office)
(202) 442-9477 (fax)
maximilian.tondro@dc.gov

*Attorney for Department of
Consumer and Regulatory Affairs*

* Admitted to practice in Maryland. Practicing in the District of Columbia pursuant to D.C. Court of Appeals Rule 49(c)(4).

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of February 2015, a copy of the foregoing Pre-Hearing Statement was served via electronic mail to:

Spring Valley-Wesley Heights Citizens Association
4601 Tilden Street, NW
Washington, D.C. 20016
c/o Michael Mazzuchi, President
4430 Macomb Street, NW
Washington, D.C. 20016
Mazzuchidc@gmail.com
tmfsmith@rcn.com
Appellant

Gayle Trotter, Chair
Advisory Neighborhood Commission 3D
P.O. Box 40846
Palisades Station
Washington, D.C. 20016
3D@ANC.dc.gov
Appellant

Paul Tummonds
Goulston & Storrs
1999 K Street, N.W., Suite 500
Washington, D.C. 20006
PTummonds@goulstonstorrs.com
Counsel to AU

Joel Lawson
D.C. Office of Planning
1100 4th Street, S.W., Suite E650
Washington, D.C. 20024
joel.lawson@dc.gov

Date: 2/6/2015



Maximilian Tondro

EXHIBIT A

BEFORE THE ZONING COMMISSION
OF THE DISTRICT OF COLUMBIA

FORM 151 – APPLICATION FOR MINOR MODIFICATION

Before completing this form, please review the instructions on the reverse side. Print or type all information unless otherwise indicated. All information must be completely filled out.

CASE NO.: 11-07

Motion for Minor Modification to:	<input type="checkbox"/> Final Order	<input checked="" type="checkbox"/> Approved Plan	<input type="checkbox"/> Amount of Relief	<input type="checkbox"/> Other _____
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Address or boundary description of the premises:	American University East Campus bounded by Nebraska Avenue NW, Massachusetts Avenue NW, a shared property line with the Westover Place Townhomes, and New Mexico Avenue NW.			
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Square No.(s)	1601	Lot No. (s)	3	ANC	3D
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Points and Authorities:

Below and/or on a separate sheet of 8 1/2" x 11" paper, state each and every reason why the Zoning Commission (ZC) should grant your motion, including relevant references to the Zoning Regulations or Map.

See attached

RECEIVED
D.C. OFFICE OF ZONING
NOV 20 2014 PM 2:23

CERTIFICATE OF SERVICE

I hereby certify that on this	2	0	day of	November	,	2	0	1	4
-------------------------------	---	---	--------	----------	---	---	---	---	---

I served a copy of the forgoing motion or request to each Applicant, Petitioner, Appellant, Party, and the Office of Planning on

the above referenced ZC case via:	<input type="checkbox"/> Mailed letter	<input checked="" type="checkbox"/> Hand delivery	<input type="checkbox"/> E-Mail	<input type="checkbox"/> Other _____
-----------------------------------	--	---	---------------------------------	--------------------------------------

Signature:



Print Name: Cary Kadlecek

ZONING COMMISSION
District of Columbia

Firm/Organization: Goulston & Storrs, PC

CASE NO. 11-07C

Address: 1999 K Street NW, Suite 500, Washington, DC 20006

EXHIBIT NO. 1

Phone No.: 202-721-0011 E-Mail: ckadlecek@goulstonstорrs.com

To be notified of hearing and decision: (Applicant or Authorized Agent)

In the event an authorized agent files an application on behalf of the Applicant for the Minor Modification, a letter signed by the Applicant for the Minor Modification authorizing the agent to act on his/her behalf shall accompany the notice of application, petition, or appeal.

Print Name: Paul Tummonds

Address: Goulston & Storrs, 1999 K Street NW, Suite 500, Washington, DC 20006

Phone No.: 202-721-0011

E-Mail: ptummonds@goulstonstорrs.com

ZONING COMMISSION

District of Columbia

CASE NO. 11-07C

EXHIBIT NO. 1

November 20, 2014

VIA HAND DELIVERY

Chairman Anthony Hood
District of Columbia Zoning Commission
441 4th Street NW, Suite 210S
Washington, DC 20001

Re Request for a Minor Modification to an Approved Campus Plan Further Processing Application – Zoning Commission Order No 11-07

Dear Chairman Hood and Members of the Commission

Pursuant to Section 3129 of the Zoning Regulations (11 DCMR § 3129), American University (“AU” or “University”) hereby submits an application for the review and approval of a minor modification to an approved Campus Plan Further Processing application¹. The University requests that the Zoning Commission consider this request at its next public meeting, December 8, 2014, so that AU can maintain its construction schedule on the East Campus in order to make available the required number of on-campus residential beds by the 2016 fall semester.

A. Background

The Zoning Commission (“ZC”) approved the AU Campus Plan and East Campus Further Processing application pursuant to Order No 11-07 (the “Order,” copy attached as Exhibit A) ZC Order No 11-07 approved the American University Campus Plan for the period from 2011-2022 and approved a Further Processing application for the construction of six buildings on the East Campus. The East Campus is located across Nebraska Avenue, NW from the central campus, and is bounded by Nebraska Avenue, NW, Massachusetts Avenue, NW, a shared property line with the Westover Place Townhomes, and New Mexico Avenue, NW.

For the East Campus, the ZC approved the development of 590 residential beds in three buildings, three additional academic and administrative buildings, and 150 parking spaces and

¹ A check for \$845, 26% of the original Further Processing Application Fee of \$3,250 00, is included with this filing

ZONING COMMISSION

11-07

2

loading facilities in an underground garage, pursuant to the special exception standards of 11 DCMR § 210. Finding of Fact No 145 of ZC Order No 11-07 stated the following with respect to the underground parking at the East Campus

The existing surface parking lot will be removed, except for a portion at the eastern end with space for approximately 200 vehicles (The University described the remaining surface parking lot as an area "reserved for a future signature academic building, similar to the Katzen Arts Center" sometime after 2020) An underground garage, providing approximately 150 parking spaces as well as loading facilities, will be constructed with access from New Mexico Avenue. The development will result in a net loss of approximately 500 parking spaces (Ex 8, 50)

Exhibit 50 of the record, attached hereto as Exhibit B, shows one level of underground parking, and the intent of the ZC was clear that 150 spaces should be provided² The only conditions in the Order regarding the development of the East Campus (Condition Nos 38-41, p 67-69 of Exhibit A) address the siting of the six buildings, with a maximum of 590 beds for undergraduate students, and a maximum of 3,000 square feet of retail use (Condition No. 38), flexibility granted to the University (Condition Nos 39 and 40), and construction management issues (Condition No 41)

On January 14, 2014, the University submitted a foundation-to-grade building permit application for construction on the East Campus consistent with the Order. On July 14, 2014, the Zoning Administrator ("ZA") approved a foundation-to-grade permit for the underground parking garage and loading facilities. The permit plans for the underground parking garage showed 150 parking spaces – the number referenced in the Order and to which AU committed – on two levels. ANC 3D and the Spring Valley Wesley Heights Citizens Association ("SVWHCA") appealed the permit to the Board of Zoning Adjustment ("BZA"), alleging that the ZA did not have the authority to approve two levels of underground parking, instead of one, and the removal of a bus turnaround in the below-grade parking level. The appeal of ANC 3D and SVWHCA (BZA Appeal No 18857) had a public hearing on November 18, 2014 and a decision is scheduled for December 16, 2014

B. Request

1. Overview

AU requests a minor modification of the underground parking garage on the East Campus to construct two below-grade levels rather than one level. As the Commission is well aware, the Order requires that AU make on-campus housing available to 67% of all full-time undergraduates by the fall semester of 2016. The completion of the 590 beds on the East Campus is essential to providing that required amount of housing. Accordingly, in the interest of

² We have included only the relevant excerpt of Exhibit 50 which shows the East Campus underground parking level

expediency and in order to help assuage concerns raised by the BZA, the University requests this minor modification notwithstanding the pending appeal (BZA Appeal No 18857) The University believes that the interests of all parties (the BZA, the ZC, ANC 3D, SVHWCA, and AU) are best served by the ZC's prompt consideration of this minor modification application

2. Description of Proposed Minor Modifications

After the ZC approved the Further Processing application for the East Campus, the University commenced preparation of the construction drawings necessary for building permits Based upon further engineering and structural analysis, AU realized that it will not be possible to provide 150 below-grade parking spaces in a single level of parking and to provide a bus turnaround area below-grade Instead, AU submitted plans that provide the required 150 below-grade parking spaces and loading facilities in two below-grade levels The second below-grade level will be only a partial level and will not cover the same footprint as the first below-grade level The two below-grade levels are shown on the plans attached as Exhibit C

This requested modification is truly minor because it will only change the underground location of some of the parking spaces The same number of parking spaces (150) will be provided in an underground garage, and entry/exit will still be from New Mexico Avenue, as the Zoning Commission approved in the Order In addition, the proposed modification will not be publicly perceptible in any way since it will be entirely below grade The change to the number of levels will have no effect on the location, height, or bulk of the buildings (11 DCMR § 210.4). Similarly, because it will be consistent with the Order's requirement for 150 underground parking spaces, the modification will not be objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions (11 DCMR § 210.2)

In regard to the removal of the below-grade bus turnaround, the University is willing to add a condition to the Order (proposed Condition No 42) which states

42 The University will not allow any charter buses or motor coaches to enter the East Campus property, including the surface parking lot

This Condition addresses any issues or concerns that may be raised by any Parties regarding adverse impacts related to noise or odors from charter buses or motor coaches, as they will not be permitted to come to the East Campus property

Despite the fact that this modification will have no exterior impact, ANC 3D raised concerns regarding potential adverse impacts on the flow of underground water, or the possibility of perchlorate contamination, that may occur as a result of a deeper excavation on the East Campus While such environmental issues are not within the ZC's jurisdiction, AU believes that it is helpful for the ZC to know that it has received appropriate environmental approvals from all relevant District agencies for this two level below-grade garage To date, AU has received the following environmental approvals

- Erosion and sediment control permit,
- Final erosion and sediment inspection approval to allow earth disturbance,
- Dewatering well permit,
- Temporary discharge approval, and
- Environmental Impact Screening Form

3. Satisfaction of Section 3129 Standards

As indicated below, this request satisfies the relevant standards for a minor modification set forth in Section 3129

(i) Section 3129 1 – Applies to Applications and Appeals to the BZA

Pursuant to Section 3035 5, the Zoning Commission shall review campus plans under the BZA rules in Chapter 31 of the Zoning Regulations

(ii) Section 3129 2 – Review of Minor Modifications to Plans

As described above, the requested modification is a minor change to the underground parking garage. The proposed changes are illustrated in the plans attached as Exhibit C and the proposed new Condition No. 42

(iii) Section 3129 3 – Request for Minor Modification Shall be no Later than Two Years After the Final Date of the Order

Under Section 3130 5, an appeal of an order to the D.C. Court of Appeals tolls the time limits of that order. The Order was appealed to the D.C. Court of Appeals, and the Court of Appeals issued a final decision in that case on November 14, 2013. Accordingly, the two year time limit runs until November 13, 2015

(iv) Section 3129 4 – Request Shall be Served on All Parties, who Shall have 10 Days to Respond

This minor modification request is being simultaneously served on all parties to ZC Case No. 11-07, as shown in the attached certificate of service. Such parties will have until December 1, 2014 to respond

(v) Section 3129 5 – A Decision on the Minor Modification Request Shall be Made on the Basis of Written Materials

All of the information that the Zoning Commission needs to approve this request can be ascertained from the written filings of the Parties. Because the request is truly minor in nature, the amount of relevant written material will be limited, and no necessary additional information could be gained from a public hearing on this request

(vi) *Section 3129 6 – No Change to the Material Facts*

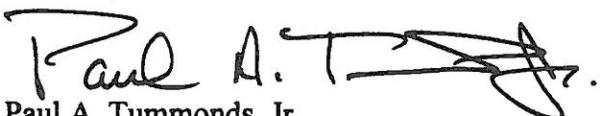
As described above, the requested minor modification will not change the material facts on which the original approval of the Further Processing application was based. The only material fact pertaining to underground parking on the East Campus was the number of parking spaces. The number of parking levels was not a contested issue, and the concerns since raised by ANC 3D about it are not germane to zoning. The East Campus will still provide 150 parking spaces in an underground garage, and the change to the number of levels will not have any publicly perceptible effect. AU's proposed Condition No. 42, to prohibit charter buses and motor coaches from coming to the East Campus property, removes any potential adverse impacts to neighboring properties that could result from the removal of the below-grade bus turnaround.

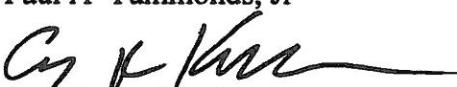
C Conclusion

The requested modification satisfies the requirements of Section 3129 of the Zoning Regulations for consideration by the Zoning Commission as a minor modification. The University requests that the Zoning Commission consider this request at its next public meeting, December 8, 2014, so that AU can maintain its construction schedule on the East Campus and provide the required number of on-campus residential beds by the 2016 fall semester.

If you or your staff have any questions regarding this minor modification application, please feel free to contact us.

Sincerely,


Paul A. Tummonds, Jr.


Cary R. Kadlecak

Attachments

CERTIFICATE OF SERVICE

I hereby certify that on November 20, 2014, copies of the attached letter and enclosures were delivered via messenger or U.S. Mail to the following

Joel Lawson
D.C. Office of Planning
1100 4th Street SW, Suite E650
Washington, DC 20024

ANC 3D
c/o Gayle Trotter, Chair
1935 Foxview Circle NW
Washington, DC 20007

ANC 3E
c/o Lisner Home
5425 Western Avenue NW
Suite 219
Washington, DC 20015

Thomas Smith
SMD 3D02
4601 Tilden Street NW
Washington, DC 20016

ANC 3F¹
4401-A Connecticut Ave NW
Box 244
Washington, DC 20008-2322

Tenley Campus Neighbors
Association
c/o Allison I. Fultz
Kaplan Kirsch & Rockwell, LLP
1001 Connecticut Avenue NW
Suite 800
Washington, DC 20036

Spring Valley-Wesley Heights
Citizens Association
c/o Michael Mazzuchi
4430 Macomb Street NW
Washington, DC 20016

Tenley Neighbors Association
c/o Judy Chesser
3901 Alton Place NW
Washington, DC 20016

Neighbors for a Livable
Community
c/o Laurie B. Horvitz, Esq.
Law Office of Laurie B. Horvitz
4520 East West Highway
Suite 700
Bethesda, MD 20814

Westover Place Homes
Corporation
c/o David Fehrman
4296 Massachusetts Avenue NW
Washington, DC 20016

Robert Herzstein
4710 Woodway Lane NW
Washington, DC 20016



Cary Kadlecek

¹ Delivered by U.S. Mail

GOVERNMENT OF THE DISTRICT OF COLUMBIA

+++ +

BOARD OF ZONING ADJUSTMENT

+++ +

PUBLIC MEETING

+++ +

TUESDAY
DECEMBER 16, 2014

+++ +

The Public Meeting of the D.C. Board of Zoning Adjustment convened in the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, N.W., Washington, D.C., 20001 at 9:30 a.m., pursuant to notice, Lloyd J. Jordan, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD J. JORDAN, Chairperson
S. KATHRYN ALLEN, Vice Chairperson
MARNIQUE Y. HEATH, Member
JEFFREY L. HINKLE, Member (NCPC)

ZONING COMMISSION MEMBERS PRESENT:

PETER G. MAY
ROBERT MILLER

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
JOHN NYARKU, Zoning Specialist

OFFICE OF THE D.C. ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.

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1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

OFFICE OF PLANNING STAFF PRESENT:

MAXINE BROWN-ROBERTS
STEPHEN GYOR
MATT JESICK
MEGAN RAPPOLT
KAREN THOMAS

The transcript constitutes the minutes from
the Public Meeting held on December 16, 2014.

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Adjourn	

1 CHAIR JORDAN: Not at all.

2 UNKNOWN PARTICIPANT: That's fine.

3 CHAIR JORDAN: Sorry, but thanking you
4 for coming, but no, you can't.

5 And certainly there's avenues for the
6 church to receive the ability to go forward by
7 filing for a special exception and things like
8 that. So, there's ways around it.

9 Okay, Mr. Moy, let's go to -- where are
10 we, 57?

11 SECRETARY MOY: Yes, the last decision
12 case before the Board, Mr. Chairman, this is, as
13 you'll recall, DCRA's motion to hold the Board's
14 decision in abeyance.

15 This is to appeal Number 18857 of the
16 Advisory Neighborhood Commission's 3D. And, of
17 course, you will recall, this is to the appealing
18 the decision by DCRA to issue a Building Permit
19 Number FD, as in Foxtrot Delta, 1400058 allowing
20 the construction of a two story parking garage for
21 the American University at 4400 Massachusetts
22 Avenue, NW.

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WASHINGTON, D.C. 20005-3701

(202) 234-4433

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1 CHAIR JORDAN: All right. We have
2 before us -- did you announce that? Because that
3 wasn't -- I was being a little B

4 SECRETARY MOY: I just now did.

5 CHAIR JORDAN: -- about the motion to
6 stay?

7 SECRETARY MOY: Yes, I did.

8 CHAIR JORDAN: So, the Board we have
9 before us a motion to stay this proceeding. The
10 motion to stay has been filed by DCRA and supported
11 by the American University on this because they B

12 Also pending at the same time is an
13 application for modification to the Zoning
14 Commission which this all arises out of Zoning
15 Commission activity that they are given the
16 opportunity to have the Zoning Commission rule on
17 this.

18 The Zoning Commission actually, I
19 think, may have already had the first phase
20 hearing.

21 VICE CHAIR ALLEN: It was on the
22 Consent Calendar and then removed for a hearing in

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WASHINGTON, D.C. 20005-3701

(202) 234-4433

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1 February.

2 CHAIR JORDAN: So, we -- it's on the
3 exact same issue that's before this Board and this
4 is a recent case. I think there is time enough that
5 we need to defer on this particular item to the
6 Zoning Commission. It's the same issue that's set
7 for February so there is a time and date certain.

8 It's not -- so I would be supportive of
9 granting a stay.

10 || Anyone else?

11 VICE CHAIR ALLEN: Second.

12 CHAIR JORDAN: I didn't move it, but
13 I'll move it. I move -- no, we're going to do it
14 this way, Vice Chair Allen just moved it by
15 seconding it, but she moved it and I'll second it.

16 Any other discussion? All those in
17 favor of the motion, aye?

18 (CHORUS OF AYES)

19 CHAIR JORDAN: Those opposed, nay?

20 The motion carries. Mr. Moy?

21 SECRETARY MOY: Yes, sir. Before I
22 read the final vote, there is a absentee ballot from

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**REALITY CROSS
COURT REPORTERS AND TRANSCRIPTIONS**

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

(202) 234-4433

1 another participant who is Mr. Anthony Hood and his
2 decision is in concurrence with the motion, so the
3 resulting vote would be 4-0, one Member not
4 participating and this on the motion of Vice
5 Chairperson Allen, seconded by Chairman Jordan.
6 Also in support Ms. Heath and Mr. Hinkle and, of
7 course, the absentee vote of Mr. Hood. That's 4-0.

8 CHAIR JORDAN: Okay. Okay, so that's
9 that.

10 Where are we? Are we still doing
11 meeting cases this morning? Oh, we lost one today,
12 right. One got withdrawn.

13 (Whereupon, the meeting went off the
14 record at 10:30 a.m.)

15

16

17

18

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WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

EXHIBIT C

Tondro, Maximilian

From: LeGrant, Matt (DCRA)
Sent: Monday, February 02, 2015 9:33 PM
To: Bolling, Melinda (DCRA); Tondro, Maximilian
Cc: Reid, Rohan (DCRA); Goldstein, Paul (DCRA); Beeton, Kathleen A. (DCRA)
Subject: Fw: ZC Results: 11-07C

News from ZC re AU mod

From: Schellin, Sharon (DCOZ)
Sent: Monday, February 02, 2015 08:48 PM
To: shood0225@yahoo.com <shood0225@yahoo.com>; Anderson, Kael <kael.anderson@ncpc.gov>; Bergstein, Alan (OAG); DCOZ - Personnel (DCOZ); Henson, Jamie (DDOT); Jeff Hinkle (jeff.hinkle@ncpc.gov) <jeff.hinkle@ncpc.gov>; Lawson, Joel (OP); LeGrant, Matt (DCRA); Marcie Cohen <marciecohen007@gmail.com>; Michael G. Turnbull (mturnbul@aoc.gov) <mturnbul@aoc.gov>; Peter May@nps.gov <Peter May@nps.gov>; Ritting, Jacob (OAG); Rob Miller (millersway55@gmail.com) <millersway55@gmail.com>; Shane Dettman (shane.dettman@ncpc.gov) <shane.dettman@ncpc.gov>; Steingasser, Jennifer (OP)
Subject: ZC Results: 11-07C

The hearing for the above-referenced case (American University – Modification to Further Processing) concluded this evening with the Commission taking final action to approve the case (5-0-0 Miller/Hood). Thanks, Sharon

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