

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

REGULAR MEETING

+ + + + +

MONDAY

JUNE 11, 2012

+ + + + +

The Regular Meeting of the District of Columbia Zoning Commission convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4<sup>th</sup> Street, N.W., Washington, D.C., 20001, pursuant to notice at 6:34 p.m., Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman  
MARCIE COHEN, Vice Chairman  
MICHAEL G. TURNBULL, FAIA, Commissioner  
(OAC)  
PETER G. MAY, Commissioner (NPS)

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director,  
Development Review & Historic Preservation

JOEL LAWSON

STEVEN COCHRAN

PAUL GOLDSTEIN

ARTHUR JACKSON

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

JACOB RITTING

DISTRICT DEPARTMENT OF TRANSPORTATION STAFF  
PRESENT:

The transcript constitutes the  
minutes from the Regular meeting held on June  
11, 2012.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

## TABLE OF CONTENTS

	<u>Page No.</u>
Preliminary Matters, <b>SHARON SCHELLIN</b>	6
Consent Calendar	
A.    Z.C. Case No. 97-16B (Lowell School, Inc. -- Minor Modification to PUD at Square 2745F)	11
Final Action	
A.    Z.C. Case No. 11-13 (TC/CSG St. 14 Matthew's -- Consolidated PUD & Related Map Amendment @ Square 546)	14
B.    Z.C. Case No. 11-23 (ANC 8B -- Map Amendment at Square 5729 and 5729W)	26
C.    Z.C. Case No. 03-12M/03-13M Capper Carrollsburg Venture, LLC Two-Year PUD Time Extension at Square 881W)	27
Hearing Action, Office of Planning	
A.    Z.C. Case No. 06-10B (The Morris & Gwendolyn Cafritz Foundation 2nd Stage PUD & Modification to 1st Stage at Square 3765 & 3767)	29
B.    Z.C. Case No. 08-31 (Bao-An Nguyen C. -- Map Amendment at Square 1417)	33
ZRR Guidance, Office of Planning	None

### NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

Correspondence, **SHARON SCHELLIN**

- A. Z.C. Case No. 11-03 (Request of Harbour Square Owners, Inc. for Minor Modification of Order No. 11-03 & Applicant's Response) 61
- B. Z.C. Case No. 11-12 (West End Library Advisory Group's Motion for Reconsideration and Rehearing and Applicant's Response Thereto) 67
- C. Z.C. Case No. 11-07 (Request of ANC 3D for Motion for Reconsideration and Rehearing and Applicant's Response thereto) 70
- D. Z.C. Case No. 11-07 (Request of Robert Herzstein for Motion for Reconsideration and Rehearing and Applicant's Response Thereto) 73
- E. Z.C. Case No. 11-07A (Request of ANC 3D for Motion for Reconsideration and Rehearing and Applicant's Response Thereto) 76

Status Report, Office of Planning 80

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

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

6:34 p.m.

CHAIRMAN HOOD: Okay, we're going to go ahead and get started.

This meeting will please come to order.

Good evening, ladies and gentlemen.

This is the June 11, 2012 public meeting of the Zoning Commission of the District of Columbia.

My name is Anthony Hood. Joining me are Commissioner Cohen, Commissioner May and Commissioner Turnbull. We are also joined by the Office of Zoning Staff, Ms. Sharon Schellin.

Also the Office of Attorney General, Mr. Ritting, and Ms. Nagelhout. Office of Planning, Ms. Steingasser and Mr. Lawson, Mr. Cochran, and Mr. Goldstein.

Copies of today's agenda are available to you and are located in the bin near the door.

We do not take any public testimony

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 at our meetings unless the Commission requests  
2 someone to come forward. Please be advised,  
3 this proceeding is being recorded by a court  
4 reporter. It's also webcast live.  
5 Accordingly, we must ask you to refrain from  
6 any disruptive noises or actions in the hearing  
7 room. Please turn off all beepers and cell  
8 phones.

9 Does the staff have any preliminary  
10 matters?

11 SECRETARY SCHELLIN: No, sir.

12 CHAIRMAN HOOD: Okay. If not, I  
13 just have two preliminary matters I'd like to  
14 take care of up front.

15 We lost a member of the Commission,  
16 who has moved on. We need a vice chairman.  
17 So, what I'd like to do is ask -- I would like  
18 to nominate Marcie Cohen as the Vice Chairman  
19 of the Zoning Commission.

20 Any further discussion on that

21 If not, I would like to make a motion  
22 that we elect Marcie Cohen as the Vice Chair

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 of the Zoning Commission, and ask for a second.

2 COMMISSIONER MAY: Second.

3 CHAIRMAN HOOD: It's been moved and  
4 properly seconded. Any further discussion?  
5 Any further discussion?

6 All those in favor, aye?

7 (Ayes.)

8 CHAIRMAN HOOD: Not hearing any  
9 opposition, Ms. Schellin, would you record the  
10 vote?

11 SECRETARY SCHELLIN: Yes. Staff  
12 records the vote 4:0:1 to approve Commissioner  
13 Cohen as the new Vice Chair, Commissioner Hood  
14 moving, Commissioner Turnbull seconding,  
15 Commissioner May in support, Commissioner Cohen  
16 in support, Commissioner -- the third mayoral  
17 appointee position vacant, not voting.

18 CHAIRMAN HOOD: Okay. Also, what  
19 I would like to do at this point, is just to  
20 read a statement about the confusion of ZRR,  
21 because we don't have anything, I'm just going  
22 to read the statement and possibly it will be

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 on line.

2 At the last meeting I brought issues  
3 to light that I had encountered with the public  
4 concerning the process of the ZRR. And,  
5 unfortunately, there continues to be confusion  
6 with this issue.

7 First, I want to make it clear that  
8 the concerns I was referring to were not specific  
9 policy changes, rather issues about the process.

10 I would now like to take a minute  
11 to again clear up any misunderstanding about  
12 this process.

13 Currently, the Office of Planning  
14 is in the process of drafting text or language,  
15 or rather, language, to amend the Zoning  
16 Regulations. As of yet, they have not submitted  
17 any text or language to the Zoning Commission  
18 for a hearing, for final.

19 It is my understanding that there  
20 will be some text forthcoming within the next  
21 several weeks. When the Zoning Commission sets  
22 down the text for hearing I understand the Office

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 of Planning will be conducting outreach on the  
2 proposed text.

3 I would encourage the Office of  
4 Planning to go far and wide to illustrate what  
5 the proposed changes would mean to all of our  
6 communities. Perhaps, the outreach meetings  
7 could be broadcast on Channel 16. Maybe a  
8 system could be devised to respond to the  
9 specific concerns that are raised.

10 Whatever OP decides, I would hope  
11 that the community can come away informed and  
12 ready to present their testimony to us at the  
13 hearing.

14 Once the public hearings are  
15 scheduled, the public will have the opportunity  
16 to voice their opinions directly with the Zoning  
17 Commission. They can (A), submit detailed  
18 written testimony in support or opposition,  
19 and/or (B) testify in support or opposition  
20 before the Zoning Commission.

21 I would like to make it crystal  
22 clear, the decision on the text or language will

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 be made by the Zoning Commission after it has  
2 held public hearings. Again, I want everyone  
3 to be comfortable with the process, know that  
4 there will be education on the proposed changes,  
5 know that their voices will be heard, and that  
6 the Zoning Commission will make the final  
7 decisions in the hearing.

8 Commissioners, anyone else --  
9 hopefully, that will defray some of the  
10 confusion, some of the unreadiness, because  
11 there will be a process, and the Office of  
12 Planning needs to -- they are moving forward  
13 with doing their process of getting the word  
14 out. At the end of the day, though, the  
15 decisions will be made in this room, right here,  
16 pro or con.

17 Commissioners, anyone like to add  
18 something?

19 Now, what I hope I didn't do is cause  
20 more confusion. So, hopefully, I won't have  
21 to read one at our next meeting. I'm hoping  
22 that we can allow the Office of Planning to do

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1       what they have to do, and at the end of the day  
2       the Zoning Commission will do what they have  
3       to do.

4                   Anybody want to respond?     Ms.  
5       Steingasser, anyone?

6                   Okay, thank you all very much.

7                   Okay, let's go to the consent  
8       calendar, Zoning Commission Case No. 97-16B,  
9       Lowell School, Inc., minor modification to the  
10      PUD at Square -- no, before I do that -- well,  
11      it's Square 2745F -- does any Commissioner like  
12      to see this come off the calendar?

13                   Commissioner Turnbull?

14                   COMMISSIONER TURNBULL:   Well, Mr.  
15      Chair, before we get into it, I mean, having  
16      read the material OP is, actually, asking for  
17      this to be taken off the consent calendar.   And,  
18      if you -- you know, in reading it and looking  
19      at it, I do agree with OP that this is not a  
20      minor modification.   And, I believe we should  
21      have a hearing.

22                   CHAIRMAN   HOOD:       That's all it

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 takes. Thank you, Mr. Turnbull.

2 Commissioner Cohen.

3 VICE CHAIR COHEN: Thank you, Mr.  
4 Chairman.

5 Again, I think that I would -- I  
6 believe that the drive aisle, if it's going to  
7 be constructed, should be constructed if the  
8 Certificate of Occupancy is issued -- when the  
9 Certificate of Occupancy is issued for the  
10 gymnasium.

11 So, that's my thinking on that.

12 CHAIRMAN HOOD: Okay. I think some  
13 of that we can -- since we are going to take  
14 this off the consent calendar, I guess now we  
15 have to set it down. And, what I would like  
16 to do is just go ahead and move forward.

17 Commissioner Turnbull has asked  
18 that we take this off the consent calendar, and  
19 I, actually, agree, and I think some of those  
20 clarifications that we need might drive our  
21 thinking. We can decide that, or how that as  
22 a finality at the hearing.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1                   So,       any       other       comments,  
2       Commissioners?

3                   What I would like to do at this time,  
4       and not wait until we get the hearing action,  
5       I don't want to confuse this, is there someone  
6       here who wanted to respond to this, since we  
7       are going to set it down? Can we just go ahead  
8       and set it down?   Okay.   Let's just go ahead  
9       and set down the Zoning Commission Case No.  
10      97-16B for a hearing, and I'll ask for a second.

11                  COMMISSIONER TURNBULL:   Second.

12                  CHAIRMAN HOOD:   It's been moved and  
13      properly seconded.   Any further discussion?

14                  All those in favor, aye?

15                  (Ayes.)

16                  CHAIRMAN HOOD:   Not hearing any  
17      opposition, Ms. Schellin, would you please  
18      record the vote?

19                  SECRETARY SCHELLIN:   Yes.   Staff  
20      records the vote 4:0:1, to set down Zoning  
21      Commission Case No. 97-16B as a contested case,  
22      Commissioner Hood moving, Commissioner Turnbull

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 seconding, Commissioners Cohen and May in  
2 support, third mayoral appointee position  
3 vacant, not voting.

4 CHAIRMAN HOOD: Okay. Let's move  
5 right into final action. Zoning Commission  
6 Case No. 11-13, TC/CSG St. Matthew's --  
7 Consolidated PUD & Related Map Amendment at  
8 Square 546.

9 Ms. Schellin?

10 SECRETARY SCHELLIN: Yes, sir. At  
11 Exhibit 103, there's an NCPC report that says,  
12 basically, that it would not be inconsistent  
13 with the comp plan for the National Capitol,  
14 nor have adverse effects on other identified  
15 Federal interests.

16 Exhibits 104 and 106 are letters  
17 from the applicant and Ms. Herriage asking for  
18 additional time to report on their final  
19 meeting, which was granted until May 31st.

20 Exhibit 105, the applicant's  
21 submission responding to the conditions that  
22 were submitted by the Carrollsburg Square Condo

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 Association, and then Exhibit 110 is  
2 Carrollsbury Square's response.

3 Exhibit 108 is a letter and/or  
4 report from Dr. Krause.

5 Exhibit 114 is a letter from the  
6 applicant reporting on their meeting with Ms.  
7 Herriage, and just to advise the Commission,  
8 the record is left open until May 31st for the  
9 applicant and Ms. Herriage to report on the  
10 outcome of their meeting.

11 On Friday the 8th, we received a  
12 letter from Ms. Herriage that has not been put  
13 in the record, since it was closed. And, I spoke  
14 to Ms. Herriage today, and told her I would  
15 advise the Commission of her letter, and see  
16 if the Commission would like to reopen the record  
17 to receive it. And, if so, the applicant has  
18 since made a request to reopen the record to  
19 accept their response to that letter.

20 CHAIRMAN HOOD: I guess before we  
21 start opening the record, Commissioners, I would  
22 like to see -- have the staff give a feel for

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1     what's in the letter. I think the only thing  
2     that the record was left open for was the --  
3     and I appreciate my colleagues enjoining me with  
4     this, was to deal with the developer and Ms.  
5     Herriage's son.

6             If it's pertaining to that, I would  
7     be more inclined to open the record. But, if  
8     this goes beyond that, I am not inclined to  
9     support opening the record.

10            VICE CHAIR COHEN: Chairman Hood,  
11     I agree with you. That's my recollection as  
12     well.

13            SECRETARY     SCHELLIN:            Ms.  
14     Herriage's letter is a -- the joint letter from  
15     -- it is a letter from the applicant, in which  
16     I believe they had shared with Ms. Herriage,  
17     and/or her attorney, in submitting it said that  
18     if there is anything further to report prior  
19     to final action then they would submit  
20     something. So, I think that Ms. Herriage's  
21     letter is probably an update on what she feels  
22     has happened since that meeting, or has not

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 happened.

2 CHAIRMAN HOOD: Okay.

3 COMMISSIONER MAY: I would be fine  
4 with considering this. I mean, the matter does  
5 seem to be a little left open, based on the  
6 correspondence we already have in the file.

7 SECRETARY SCHELLIN: And then, and  
8 the applicant's letter also in response to hers.

9 MS. NAGELHOUT: Yes.

10 CHAIRMAN HOOD: So, we'll just open  
11 up the record for both of those.

12 And, I just want to caution us that  
13 we only left it open for a specific item, right?

14 Hopefully, there's nothing else in these  
15 letters, not having seen them. Okay. Let's  
16 take a moment and review.

17 Okay. I'll just make my comments,  
18 since I was the one who asked this be done.

19 Technically, within my  
20 jurisdiction, I did ask the developer to meet  
21 with Ms. Herriage, out of concern of her son.

22 What I will go on is a good faith effort of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 what I read here in the -- let me go back, I  
2 don't understand, Mr. Krause, the concerns of  
3 Mr. Krause, Mr. Miller, and Mr. Byrd, while their  
4 concerns I'm not sure if their concerns are the  
5 same about Ms. Herriage's son. But, that part  
6 of the hearing has been exhausted, as far as  
7 I'm concerned. This was only for the issue with  
8 the young man, Ms. Herriage's son.

9 Also, when I look at what was  
10 submitted by Ms. Prince, on behalf of the  
11 applicant, "As I understand it the Commission  
12 asked that we continue meeting with Ms. Herriage  
13 about precautionary measures prior to final  
14 action, but we have not yet reached an agreement.

15 We are hopeful that we will reach an agreement  
16 in the near future. We believe that this case  
17 is ready for final action, request the  
18 Commission vote to approve this case tonight."

19 I'm not sure, but I would hope that  
20 in the order that we would cite the ongoing work  
21 and precautionary measures that have been put  
22 in place. How that all works from a legal

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 standpoint I don't know, but I would think that  
2 -- I would hope that those discussions would  
3 continue, and I would hope that they would at  
4 least, even if this project moves forward, that  
5 the precautionary measures are put in place so  
6 as to protect the young fellow's interest.

7 Let me open it up for any comments,  
8 Commissioners.

9 COMMISSIONER MAY: Mr. Chairman?

10 CHAIRMAN HOOD: Yes, Commissioner  
11 May.

12 COMMISSIONER MAY: I would just  
13 say, it's a bit disappointing that there hasn't  
14 been some level of agreement already, but it  
15 is, I guess, encouraging that there is still  
16 hope that they are continuing to talk. And,  
17 I would just want to encourage that that  
18 conversation continue, and I believe that's what  
19 you were suggesting, that they would continue  
20 to work together to try to take the necessary  
21 precautions with the concerns of Ms. Herriage  
22 and her son in mind as the project moves forward.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1           So, it might be helpful to know  
2 whether there's actually anything in the order  
3 that, specifically, addresses further  
4 conversation, or whether we can insert  
5 something.

6           OAG STAFF RITTING: There's nothing  
7 in the draft that I circulated to you folks  
8 before the meeting.

9           COMMISSIONER MAY: Yes. I didn't  
10 recall it.

11          OAG STAFF RITTING: If you want me  
12 to add some language, I can do that, and that  
13 would be circulated to the Commissioners or to  
14 the Chairman prior to it being issued. So, if  
15 you disagree with what I -- I'll attempt to  
16 summarize what you've discussed tonight, and  
17 if you disagree with it you can comment further  
18 at that time.

19          COMMISSIONER MAY: That seems good  
20 to me.

21          COMMISSIONER TURNBULL: Would this  
22 also extend into something under construction

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 management, or is it mainly a discussion issue,  
2 or is there --

3 OAG STAFF RITTING: My  
4 understanding is that just the Commission has  
5 requested that they continue discussions with  
6 Ms. Herriage concerning her son, and that it  
7 is unrelated to any construction management  
8 agreement. I don't believe that there's been  
9 one proffered in this case.

10 COMMISSIONER TURNBULL: Okay,  
11 thank you.

12 VICE CHAIR COHEN: Mr. Chairman,  
13 it's my contention that there has not been a  
14 lot of scientific evidence that there will be  
15 all this toxic mold. However, there was also  
16 information in the record provided regarding  
17 the doctor of Ms. Herriage's son, and I do  
18 believe every effort should be made to attempt  
19 to come up with some kind of solution.

20 So, I agree with my colleagues and  
21 our lawyer, that some language should be in the  
22 order.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1                   CHAIRMAN HOOD: I guess I'll just  
2 add that whatever precautionary measures there  
3 are, it would also be that the applicant would  
4 work along with Ms. Herriage to get those  
5 precautionary measures in place.

6                   I'm not sure how far I can go, but  
7 something, just to say have a meeting, that would  
8 probably go on forever, but at least try to come  
9 to some degree to where when if development was  
10 to start that there would be some precautionary  
11 measures, I look forward to that happening  
12 throughout that process.

13                  I don't know, I'll leave it to you,  
14 Mr. Ritting, something that -- just a little  
15 more than just having a meeting. I go to enough  
16 meetings to meet.

17                  If we can, whatever is legal within  
18 our jurisdiction.

19                  COMMISSIONER MAY: Chairman Hood,  
20 I just want to underscore the point made by  
21 Commissioner Cohen, that we didn't see evidence  
22 that there is a direct concern about toxic mold.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 But, I think there is a concern based on the  
2 most recent letter about even just the dust that  
3 might be kicked up by the construction,  
4 aerosolized soil, or some term like that.

5 So, I mean, given those concerns,  
6 there may be some steps that the applicant can  
7 take to make sure that Ms. Herriage's son is  
8 better protected against the risks that he might  
9 be exposed to from the construction being  
10 adjacent. And, it's in the best interest, I  
11 think, of the applicant, in doing what they can  
12 to address that.

13 COMMISSIONER TURNBULL: Mr.  
14 Chairman, let me just confirm what we are doing.

15 We'll vote on the order tonight, with the idea  
16 -- nothing that OAG is going to add language  
17 to put in -- to, basically, reflect all of the  
18 comments that we've said tonight.

19 CHAIRMAN HOOD: Yes, and I believe  
20 the order won't be issued until we have a chance  
21 to look at it, right?

22 OAG STAFF RITTING: That's correct.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1       The normal course is that after a draft has  
2       been prepared, that it's circulated to you to  
3       sign, and, of course, you can suggest changes  
4       at that time, and you could choose to circulate  
5       it to your fellow Commissioners at that time,  
6       if you so choose.

7               CHAIRMAN HOOD:    Okay.    Anything  
8       else?   Somebody like to make a motion?

9               COMMISSIONER MAY:   Mr. Chair, I  
10       would vote that we approve Zoning Case No. 11-13,  
11       TC/CSG St. Matthew's consolidated PUD and  
12       related map amendment at Square 546, with the  
13       provision of what we just discussed about the  
14       refinements to the order itself regarding the  
15       health conditions, and look for a second.

16              VICE CHAIR COHEN:   I second.

17              CHAIRMAN HOOD:    Okay.    It's been  
18       moved and properly seconded.   Any further  
19       discussion?

20              Are you ready for the question?

21              All those in favor, aye?

22              (Ayes.)

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 CHAIRMAN HOOD: Not hearing any  
2 opposition, Ms. Schellin, would you please  
3 record the vote?

4 SECRETARY SCHELLIN: Yes. Staff  
5 records the vote 4:0:1 to approve final action  
6 on Zoning Commission Case 11-13, with the  
7 suggested changes that were discussed on the  
8 dias this evening, Commissioner Turnbull  
9 moving, Commissioner Cohen seconding,  
10 Commissioners Hood and May in support, third  
11 mayoral appointee position vacant, not voting.

12 CHAIRMAN HOOD: Okay. Next on the  
13 agenda is Zoning Commission Case No. 11-23.  
14 This is ANC 8B, Map Amendment at Square 5729  
15 and 5729W.

16 Ms. Schellin?

17 SECRETARY SCHELLIN: Yes, sir.  
18 The only thing that staff has to add to this  
19 one is, actually, two things.

20 One, we did not receive any comments  
21 to the proposed rulemaking. And two, at Exhibit  
22 18, there's an NCPC report, again, no issues

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 with this case either.

2 CHAIRMAN HOOD: Commissioners, any  
3 comments? Anyone?

4 VICE CHAIR COHEN: Mr. Chairman, I  
5 move to approve Z.C. Case No. 11-23, ANC 8B's  
6 request for a map amendment at Square 5729 and  
7 5729 W.

8 Is there a second?

9 CHAIRMAN HOOD: Okay. I'll second  
10 that. Any questions?

11 It has been moved and properly  
12 seconded. Any further discussion? Are you  
13 ready for the question?

14 All those in favor, aye?

15 (Ayes.)

16 CHAIRMAN HOOD: Not hearing any  
17 opposition, Ms. Schellin, would you please  
18 record the vote?

19 SECRETARY SCHELLIN: Yes. Staff  
20 records the vote 4:0:1 to approve final action  
21 in Zoning Commission Case 11-23, Commissioner  
22 Cohen moving, Commissioner Hood seconding,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 Commissioners May and Turnbull in support, third  
2 mayoral appointee position vacant, not voting.

3 CHAIRMAN HOOD: Okay. Next,  
4 Zoning Commission Case No. 03-12M/03-13M,  
5 Capper Carrollsburg Venture, LLC, two-year PUB  
6 time extension at Square 881W.

7 Ms. Schellin?

8 SECRETARY SCHELLIN: Yes, sir.

9 At Exhibit 4, there's a request from  
10 ANC 6D to postpone deciding this case, so they  
11 can have the applicant present to them.

12 It's my understanding, they are  
13 having their meeting this evening, and the  
14 applicant is there presenting.

15 CHAIRMAN HOOD: Okay. Vice Chair?

16 VICE CHAIR COHEN: Mr. Chairman, I  
17 also noted that the record did not contain any  
18 comments from the Advisory Task Force that every  
19 Hope 6 project has. So, I would like to see  
20 that as well.

21 CHAIRMAN HOOD: Can we notify the  
22 applicant?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 SECRETARY SCHELLIN: Yes, sir.

2 CHAIRMAN HOOD: We may be giving  
3 some additional time, but it looks like they  
4 are working together, they had a meeting  
5 tonight. Do we need to do this with time  
6 certain, or whenever they come back?

7 SECRETARY SCHELLIN: I was going to  
8 ask the Commissioners if they wanted to give  
9 the ANC until the second meeting this month,  
10 or do you want to move it to July?

11 CHAIRMAN HOOD: Well, considering  
12 what Vice Chairperson Cohen asked for, what we  
13 may need to do is give them a little more time,  
14 because I'm not sure how long it's going to take  
15 to get that information.

16 SECRETARY SCHELLIN: So, the July  
17 meeting then, first July meeting? Okay,  
18 thanks.

19 CHAIRMAN HOOD: Do we need to vote  
20 on that?

21 SECRETARY SCHELLIN: No, sir.

22 CHAIRMAN HOOD: Do we have a

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 consensus? Okay, great.

2 Okay, hearing action, Zoning  
3 Commission Case No. 06-10B (The Morris &  
4 Gwendolyn Cafritz Foundation -- 2nd Stage PUD  
5 and Modification to 1st Stage at Square 3765  
6 and 3767.

7 Mr. Cochran?

8 OP STAFF MEMBER COCHRAN: Thank  
9 you, Mr. Chair.

10 The applicant has asked for a delay  
11 of a month in your consideration of the set down.

12 CHAIRMAN HOOD: Thank you very  
13 much.

14 We have a request. I don't have any  
15 problems with a delay of set down. Let me ask  
16 for any comments.

17 Commissioner Turnbull?

18 COMMISSIONER TURNBULL: Just one.

19 In the material that we were given, one of the  
20 requests is to, basically, exclude the grocery  
21 store totally? I mean, it had been transferred  
22 from A to, now they wanted it B, and now it looks

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1       like they are requesting that they be given  
2       relief to not include a grocery store in Parcel  
3       B. Is that correct?

4                   OP STAFF MEMBER COCHRAN:    That's  
5       correct, Commissioner.

6                   COMMISSIONER TURNBULL:   Can we get  
7       -- because really I didn't read it in the  
8       literature why exactly they were wanting the  
9       relief, or I didn't understand clearly what --  
10      could we get some -- is it not feasible? Have  
11      they contacted?

12                  OP STAFF MEMBER COCHRAN:   I would  
13      be happy to talk with the applicant, who may  
14      be here tonight, and ask them to submit that  
15      information.

16                  COMMISSIONER TURNBULL:    Yes.    I  
17      would like a little bit more explanation as to  
18      why the grocery store is not going to be  
19      included, and I think that may have been an issue  
20      when we were discussing it originally on this  
21      project, it was fairly significant to  
22      incorporate a grocery store.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1                   So, now that they want total relief  
2                   from it, I think we should get some very detailed  
3                   explanation as to why it's not going to be  
4                   provided.

5                   VICE CHAIR COHEN:     Commissioner  
6                   Turnbull, this is for the record, I believe that  
7                   I read, maybe in an earlier place, but there's  
8                   a possibility that there will be some type of  
9                   a warehouse type of grocer.   And, that is why  
10                  I think they are reluctant to bring in a grocery  
11                  store.

12                  But, I agree with you, we need more  
13                  information, because I don't know where the  
14                  closest grocery store is, but I think this  
15                  neighborhood may be under represented in retail,  
16                  and a grocery store, especially near a Metro  
17                  Center, which has a lot of parking, a lot of  
18                  people may be able to take advantage of a grocery  
19                  store.

20                  So, I don't really understand why  
21                  either.     So, I would appreciate greater  
22                  information on that.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 CHAIRMAN HOOD: Okay. Anything  
2 else? We are going to delay this for a month.

3 Do we need to do a time certain?

4 SECRETARY SCHELLIN: If you are  
5 saying a month, I'm going to put it on the first  
6 July meeting then, is that okay?

7 COMMISSIONER MAY: What day is  
8 that?

9 SECRETARY SCHELLIN: I believe it's  
10 the 9th. Let me double check. Yes, sir, the  
11 9th.

12 COMMISSIONER MAY: Thank you.

13 CHAIRMAN HOOD: Okay. Next on the  
14 hearing action, Zoning Commission Case No.  
15 08-31, Bao-An Nguyen C. -- Map Amendment at  
16 Square 1417.

17 Mr. Jackson.

18 OP STAFF JACKSON: Good evening,  
19 Mr. Chairman and members of the Commission.

20 The application before you began  
21 with a submission in March of 2009, to the Office  
22 of Zoning, requesting rezoning of property

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 located at 5248 McArthur Boulevard NW, from  
2 R-1-B to C-1.

3 Currently, the art studio operates  
4 within a one-family attached dwelling on the  
5 property, under a home occupancy permit. The  
6 applicant would also like to operate a  
7 commercial art gallery use on the same site.  
8 This will allow greater flexibility in the  
9 number of clients who could visit the site, to  
10 view and purchase art works and handicrafts  
11 produced on the premises.

12 The change from R-1-B to C-1 would  
13 allow the existing dwelling of the art studio  
14 and the desire to commercial use.

15 In meetings with the applicant, the  
16 Office of Planning advises that this was  
17 inconsistent to the 2006 District of Columbia  
18 Comprehensive Plan. The plan designated this  
19 subject property, and all properties on the  
20 square, for low density residential, which is  
21 characterized by single-family detached,  
22 semi-detached dwellings, as the appropriate

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 uses.

2 The applicant was advised to discuss  
3 this proposal with the local Advisory  
4 Neighborhood Commission, and the neighbors,  
5 before moving forward.

6 The Office of Planning also drafted  
7 a land use map amendment on behalf of the owner,  
8 for considerations during the 2009  
9 Comprehensive Plan amendment cycle, to expand  
10 the use designation to low-density residential  
11 and low-density commercial.

12 When the Advisory Neighborhood  
13 Commission voted to oppose that amendment, the  
14 change was not recommended for District Council  
15 approval.

16 First, the use designation was not  
17 expanded to allow commercial uses. This zoning  
18 change remains inconsistent with the adopted  
19 Comprehensive Plan.

20 Therefore, the Office of Planning  
21 cannot support setting this down for public  
22 hearing.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1                   That's a summary of the Office of  
2                   Planning report.    I'm available to answer  
3                   questions.

4                   CHAIRMAN HOOD:    Thank you, Mr.  
5                   Jackson.

6                   Vice Chairperson, you have a  
7                   question?

8                   VICE CHAIR COHEN:    Yes.    Mr.  
9                   Jackson, from the documentation that was  
10                  provided, it appears that this particular home  
11                  is really, not only next to bank, but also on  
12                  a row of other commercial uses.

13                  So, within 200 square feet on either  
14                  side is this a commercial strip, because it  
15                  appears, as I said, from the package it is.

16                  OP STAFF JACKSON:   No.   The subject  
17                  property, if you look at the aerial -- color  
18                  aerial photo, but at the northern end of that  
19                  frontage is a bank. The bank building is in the  
20                  commercial -- the C-1 District. All the other  
21                  buildings along that frontage are residential.

22                  Now, if you go south of the property,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 on the next square, you see a C-1 at the corner  
2 of the map, that next square is C-1 all along  
3 the McArthur Boulevard frontage. But, in fact,  
4 based on our records, the entire lot frontage,  
5 except for the bank, is residential.

6 VICE CHAIR COHEN: All right, thank  
7 you.

8 Well, I agree with you that they also  
9 should discuss this with the ANC.

10 OP STAFF JACKSON: Well, they did  
11 talk with the ANC about the map amendment, and  
12 I believe there may have been some confusion  
13 at the time, because the applicant has since  
14 gone back and tried to get the ANC to comment  
15 on the request just to rezone this individual  
16 property.

17 They encouraged them to try that  
18 back then, but they wanted to get confirmation,  
19 and I think the ANC is reluctant to take any  
20 position until such time as the Commission  
21 decides whether or not this should be a District  
22 or a public hearing.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 CHAIRMAN HOOD: Other questions,  
2 anyone?

3 Commissioner Turnbull.

4 COMMISSIONER TURNBULL: I just  
5 wanted to continue on with the comments that  
6 the Vice Chair has raised. And, I think, Ms.  
7 Cohen, if you look on Exhibit 3, on the last  
8 page of the applicant's discussion of it, he's  
9 got a map that sort of shows maybe -- which shows  
10 the R-1-B, and it's showing -- it's kind of a  
11 weird situation in a way. I mean, you can see  
12 on McArthur Boulevard there is a C-1 at the bank,  
13 but you do have nine -- eight or nine houses  
14 in a row that are part of the R-1-B. So, I mean,  
15 we've run into this before.

16 So, what do you sacrifice? I mean,  
17 if you give one property one, you are then  
18 endangering the property next to it, which is  
19 a residential property who is going to say, oh,  
20 now I've got more people.

21 It's a delicate situation, but I  
22 think the Office of Planning is right. I think

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 we need to preserve the R-1-B area in this  
2 section, otherwise it's -- I mean, is it a  
3 anomaly? That's a discussion for maybe a future  
4 look at this whole area, but I think at the  
5 present time, I think as the R-1-B neighborhood,  
6 I'd be reluctant to jeopardize making --  
7 extending the C-1-B down another house.

8 COMMISSIONER MAY: I have a  
9 question. The land use map amendment that you  
10 discussed, the 2009, was it limited just to this  
11 single property being included in the C-1?

12 OP STAFF JACKSON: No. The  
13 description indicated that they would designate  
14 the square.

15 COMMISSIONER MAY: The entire  
16 square.

17 OP STAFF JACKSON: That's the way  
18 the description was written, for a mix of either  
19 low-density residential or low-density  
20 commercial.

21 COMMISSIONER MAY: That seems like  
22 a radically different proposal.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1           My recollection is that in times  
2 past, when we've considered map amendments in  
3 this sort of a circumstance, where you have an  
4 adjacent commercial zone, and they want to sort  
5 of a one property out of that, and into what  
6 would be designated residential, that you,  
7 actually, have supported such applications in  
8 the past. Not universally, just occasionally  
9 when it has come up, and the circumstances were  
10 right, and the map may have been unartfully drawn  
11 or what have you.

12           OP STAFF JACKSON: I think this is  
13 a rather unusual circumstance, because if you  
14 look at Figure No. 2, it shows the Comprehensive  
15 Plan future land use designation. The land use  
16 designation for the entire square is low-density  
17 residential.

18           COMMISSIONER           MAY:           It's  
19 residential.

20           OP STAFF JACKSON: Right. And, if  
21 you look back in the records, there was some  
22 interesting legal activity around changing the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 zoning of that bank property. That's not  
2 necessarily pertinent here, but in the current  
3 circumstance, it's that no property on this  
4 square is designated commercial use. The  
5 existing bank zoning in a commercial zoning  
6 district, but there is no direction from the  
7 Comprehensive Plan to change the designation  
8 of any property on this square, and through the  
9 2009 amendment process no changes were made to  
10 the current designation.

11 COMMISSIONER MAY: So, the previous  
12 future land use map also showed it as  
13 residential? It's been that way for a long  
14 time.

15 OP STAFF JACKSON: Well, at least  
16 that's the 2006 map. It has not changed on the  
17 2006 map, and it wasn't change with the 2010  
18 amendments.

19 COMMISSIONER MAY: Right. Okay.

20 I'm just really surprised to see  
21 that it was -- or to hear that it was suggested  
22 that the entire square might be proposed as

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 residential or commercial, because that seems  
2 kind of -- it doesn't make sense that the houses  
3 on Sharrier Place, that are on the same square,  
4 would be commercial.

5 OP STAFF LAWSON: Let me just  
6 clarify that. I believe that is for the  
7 properties that front onto McArthur, not to  
8 Sharrier Drive.

9 COMMISSIONER MAY: Well, that makes  
10 a lot more sense. Okay.

11 You know, I find it interesting that  
12 the map you show a number of property owners  
13 who were supportive of this -- of the owner's  
14 petition, not petition, but request to get  
15 commercial zoning, from 2009. I assume that's  
16 when it was from, right?

17 OP STAFF JACKSON: Right. Well,  
18 the applicant had a number of people who signed  
19 up saying they were in support.

20 We asked him to go back and talk to  
21 -- confirm with additional neighbors, and see  
22 if -- also encourage some of them to join the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 petition, particularly, those who lived along  
2 McArthur.

3 COMMISSIONER MAY: Right.

4 OP STAFF JACKSON: They were  
5 successful. They got a lot -- a number of  
6 additional neighbors to endorse their proposal  
7 for their property, but none joined the  
8 petition, which --

9 COMMISSIONER MAY: But again, that  
10 was a petition to rezone the whole --

11 OP STAFF JACKSON: No, the original  
12 petition was just for that property.

13 COMMISSIONER MAY: Okay.

14 OP STAFF JACKSON: And, the map  
15 amendment, they could have expanded that  
16 petition to add additional residences along the  
17 frontage, but again, that was just -- that was  
18 not something that the neighbors were interested  
19 in participating in at that time.

20 COMMISSIONER MAY: Okay. All  
21 right, thanks.

22 VICE CHAIR COHEN: I just have one

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 more comment, and this is, I don't see art  
2 galleries as being a very intensive use, except  
3 maybe one night when they have their art  
4 openings. And, I guess they keep up the art  
5 for, normally, four to six weeks.

6 And, I know banks aren't very  
7 generous with sharing their parking, but I think  
8 those are two possibilities that, you know, I  
9 would like to consider, because, again, we are  
10 trying to accommodate a small business here.  
11 And, I think that's a valid objective.

12 CHAIRMAN HOOD: Any other comments?

13 I think, typically, though, when  
14 something with all the facts, and material  
15 facts, and everything, is in front of us, and  
16 the legal standard of the future land use map,  
17 generalized land use map, and all that, whenever  
18 something is inconsistent I don't even think  
19 we can even -- at least I believe, I don't even  
20 think we can deal with it. But anyway.

21 So, I mean, in the past I've known,  
22 and I heard Commissioner May talk about what

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 he recalled, I recall us not even being able  
2 to deal with stuff that was inconsistent,  
3 because we cannot be inconsistent with the  
4 Comprehensive Plan.

5 So, that's a whole other argument.

6 We don't need to argue about it, but I just  
7 think that that's something that we cannot even  
8 -- at least from our standard, even deal with.

9 COMMISSIONER MAY: Mr. Chairman, if  
10 I could clarify. I was not suggesting that  
11 we've ever acted, or that OP has recommended  
12 that we do something that was inconsistent with  
13 the Comprehensive Plan. I was merely  
14 suggesting that sometimes the individual  
15 circumstance of a particular case may have  
16 suggested that taking that action would not have  
17 been inconsistent.

18 I mean, clearly they believe in this  
19 circumstance that it is not inconsistent, and  
20 I'm not suggesting anything otherwise.

21 CHAIRMAN HOOD: I didn't say that.

22 Actually, my comment was going to be the same,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 but I just let everybody go first. My comment  
2 was going to be first anyway, but I let you all  
3 go first. But that's the same comment I was  
4 going to say prior to anyone making any comments.

5 Okay. So, anybody like to make a  
6 motion?

7 Commissioner May?

8 OAG STAFF RITTING: If I could speak  
9 up for a second. I just wanted to mention that  
10 there is the rule that if you are inclined to  
11 deny the application tonight that you give the  
12 applicant an opportunity to speak before voting  
13 on that denial.

14 CHAIRMAN HOOD: Commissioners, let  
15 me just ask, is that pretty much the direction  
16 we think we want to go in, because I just never  
17 know if somebody wants to make a motion to set  
18 it down or not set it down.

19 COMMISSIONER MAY: I'm not  
20 particularly inclined to make a motion either  
21 way, but it seems to be pretty clear from the  
22 future land use map and from what happened at

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 the last Comprehensive Plan discussion that it  
2 would not be -- there isn't sufficient support  
3 in the Comprehensive Plan among the neighbors  
4 to be able to pursue this, in the Comprehensive  
5 Plan now for us to act on, nor was there when  
6 the Comprehensive Plan was considering it at  
7 that time.

8 I mean, I think it's unfortunate,  
9 because it seems not to be of great consequences,  
10 but if the neighborhood and the Council see the  
11 future of this site as 100 percent residential  
12 and the bank next door is 100 percent  
13 residential, then for us to take this action  
14 would be contrary to that direction.

15 So, I don't see enough support for  
16 us to try to move to set this down.

17 CHAIRMAN HOOD: Okay. With  
18 respect to what Mr. Ritting just mentioned, is  
19 the applicant here? Is the applicant for this  
20 case that we've been deliberating here?

21 SECRETARY SCHELLIN: She is here.

22 Ma'am, if you would come to the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 table, if you would like for the Commission to  
2 hear from you before they make a decision.

3 CHAIRMAN HOOD: Okay. Good evening.

4 Can you identify yourself?

5 MS. NGUYEN: Yes. My name is  
6 Bao-An Nguyen, and we have the family together  
7 at the address 5248 McArthur Boulevard.

8 The reason that we go to want the  
9 rezoning our case, since we are next to the  
10 Citibank, and also we have the gallery before,  
11 and we had to close it, because of the situation  
12 of the economy downtown.

13 So, now, you know, since our house  
14 is between a lot of commercial zoning around  
15 us, and we think you know the gallery is very  
16 quiet, and we are at the end of the block, just  
17 right next to the bank. And, we don't think  
18 we disturb any neighbor around.

19 And also, our neighbors, they are  
20 very supportive to do this. We have on the paper  
21 to sign for us, and also the ANC during the  
22 meeting on October 7, 2009, they advised us to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 make application to ask the Office of Zoning  
2 to apply for the C-1, since they opposed the  
3 one, 417.

4 So, we share with them that we want  
5 to open a gallery. They say okay, you should  
6 apply, that do the home good. So, that's why,  
7 you know, we do it.

8 And also, in case, you know, if we  
9 opened an art gallery, we don't change anything  
10 of our house, structure, or anything. We keep  
11 it the way it is.

12 And, we also had a parking lot in  
13 front of our house, if permitted, we can park  
14 it, and, you know, the gallery, I think, is very  
15 quiet, not so busy neighborhood, not a lot of  
16 traffic, and since our family, we own like a  
17 tradition, we all work art together, the whole  
18 family, and we think that we can bring on the  
19 beautiful art and everything to the community  
20 if you will allow us.

21 When did they something to the  
22 garage and the house, as needed, it can show,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 and the community would bring all the different  
2 culture in, so I don't know, since you know we  
3 already have a lot of people that have opened  
4 a shop, and if you can extend one more slot for  
5 us we would very appreciate your help.

6 And, if you can raise up problem we  
7 will try to solve it as soon as possible, to  
8 complete everything in the house.

9 CHAIRMAN HOOD: So, you are already  
10 open?

11 MS. NGUYEN: No. No, we not yet  
12 open anything yet. We wait for your permission  
13 first.

14 CHAIRMAN HOOD: Okay. All right.

15 Any questions, Commissioners?

16 Vice Chairperson Cohen.

17 VICE CHAIR COHEN: Did you sit down  
18 with the Office of Planning and have them explain  
19 to you the issue with regard to conforming and  
20 non-conforming with the Comprehensive Plan?  
21 Do you understand?

22 MS. NGUYEN: Yes. At that time, I

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 think, you know, our application was forwarded  
2 to Mr. Jackson, and we have a meeting, and he  
3 help us and explain very clear.

4 And also like, he explain before,  
5 he advise us, you know, to go to talk with people  
6 around, and to see if someone want to put the  
7 petition together, they can save the money  
8 application. But, they said they are not ready  
9 to go, they don't know what they want to do yet,  
10 so they are not reading. When they are ready,  
11 they will let us know.

12 So, I go ahead and do.

13 VICE CHAIR COHEN: And, there are  
14 some who support you. Can you say how many out  
15 of the number on that one strip?

16 MS. NGUYEN: The whole -- you mean  
17 the same -- at the back we have a lot, and the  
18 same line, we have nine house together, and we  
19 have except two people. One, she travel a lot,  
20 so, you know, we don't have chance yet, and the  
21 other lady, she just say it doesn't matter, no  
22 comments, and the other one he would sign

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 everything.

2 VICE CHAIR COHEN: Thank you.

3 MS. NGUYEN: Thank you so much.

4 CHAIRMAN HOOD: Any other comments?

5 Mr. Jackson, I realize, I'm just  
6 curious, how long have you been working with  
7 this applicant? Has it been all the while?  
8 And, I guess she mentioned that you sat down  
9 with her, have you fully explained? Have long  
10 have you been working with her?

11 OP STAFF JACKSON: Since the  
12 original application. You'll note that the  
13 application came in before, we were just  
14 starting the cycle with the updates. And so,  
15 when the updates were done, of course, they had  
16 to be forwarded to Council.

17 Although the ANC had recommended  
18 against the approval of the updates, I think  
19 Council wanted to see everything that was being  
20 proposed for their consideration, because in  
21 the end -- because they are the final arbiters,  
22 and we just are making recommendations.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1           So, we had, there was deliberations,  
2           I guess revisions, decisions that were made,  
3           interim decisions, and then they finally made  
4           a decision on the amendments they wanted to  
5           approve.

6           During that time, we advised the  
7           applicant that they had talked with the ANC,  
8           but they should also pursue talking to the  
9           Council person for the area, just to see if  
10          there's anything else that could be done.

11          I'm not sure if there was any success  
12          in that area. So then, when the amendments were  
13          finally passed, or adopted, then, of course,  
14          you have to wait for the maps to be changed.  
15          So, it's been an incremental process.

16          She was always checking in to let  
17          me know what progress they were making. We  
18          always gave her the option to -- told her what  
19          her options were to pursue, and we reiterated,  
20          unless the Comprehensive Plan is changed to  
21          support it the Office of Planning's position  
22          would probably not change.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1                   So, we her that tonight would be the  
2                   opportunity for her to present the case. I was  
3                   telling her that this Commission has always been  
4                   that one that when they make a final decision  
5                   they'll let the applicant speak, and you did.

6                   But, we didn't -- unfortunately, we  
7                   were not able to change our position, because  
8                   the Comprehensive Plan, basically, is our guide,  
9                   and it has not been modified.

10                  CHAIRMAN HOOD: Okay. I had a  
11                  question for Mr. Ritting. Never mind. Okay.

12                  Commissioners, what is your  
13                  pleasure?

14                  I'm sorry, any other comments or  
15                  questions of Ms. Nguyen?

16                  MS. NGUYEN: What did you say,  
17                  excuse me?

18                  CHAIRMAN HOOD: I was just  
19                  wondering if any -- I was seeing if any of us  
20                  had anymore comments or questions for you, and  
21                  I don't think we do.

22                  So, thank you very much for coming

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 up and just giving us your view.

2 MS. NGUYEN: Okay. Thank you so  
3 much for your time.

4 COMMISSIONER TURNBULL: I just want  
5 to note, do you understand where we are in  
6 looking at this, and what the Office of Planning  
7 has -- is arguing about the future land use,  
8 and where that puts your property?

9 We are in a very difficult position  
10 to be able to approve something that may or may  
11 not impact, as you see it, the neighborhood.  
12 And, it may very well not, but the future land  
13 use is right now dictating residential.

14 You have neighbors to your side,  
15 some of them may agree, but you have neighbors  
16 behind. So, when we look at this, we are looking  
17 at the direction of where the zoning -- where  
18 the Comprehensive Plan is taking us. So, unless  
19 there's a major change that, as Mr. Jackson was  
20 saying, that a different view, whether something  
21 changes that would give us some direction, or  
22 some better feel on how the Comprehensive Plan

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 is looking at this, we are put in an awkward  
2 position to approve a single piece of property,  
3 because then we'd be asked to do that all the  
4 way down the line, to make special exceptions.

5 And, you know, on a case-by-case  
6 basis, there may be some reason that we'd do  
7 that, but our guiding is still the Comprehensive  
8 Plan, the future land use, where we are going  
9 with this.

10 I'm sure Mr. Jackson explained that  
11 to you at the time, that their options are very  
12 limited on what they can agree to.

13 MS. NGUYEN: Do you mean that the  
14 Office of Planning, they try to want rezoning  
15 the home?

16 COMMISSIONER TURNBULL: No, no, I  
17 think they are trying to show you the options  
18 of looking at it.

19 MS. NGUYEN: Yes.

20 COMMISSIONER TURNBULL: But,  
21 unless the Comprehensive Plan is changed, where  
22 we are right now with your piece of property

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 puts us in a very difficult situation, as to  
2 approve this.

3 MS. NGUYEN: I know, yes, it's very  
4 difficult, because, you know, we want to have  
5 it, but, you know, it's not with the  
6 Comprehensive Plan, you know, something like  
7 that. So, I don't know what we have to do now.  
8 We just wait.

9 Do you have something?

10 COMMISSIONER TURNBULL: Well, I  
11 mean, you could still continue with your  
12 discussions with the Office of Planning as to  
13 it, but again, unless it -- as he said, unless  
14 it's a Council change, something that would  
15 change the Comprehensive Plan, or ANC working  
16 with the Council, or something that would a  
17 change like this, we are pretty much handicapped  
18 on this, I think.

19 MS. NGUYEN: So, what next step,  
20 just keep talking with Mr. Jackson, and see?

21 COMMISSIONER TURNBULL: Yes.

22 MS. NGUYEN: Only if you can give

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 us, if not zoning here, you can give us like  
2 a variance to do some art work, and to sell some  
3 art, you know, like a small group, or something?

4 Besides the zoning, do you have anything,  
5 another option?

6 CHAIRMAN HOOD: I think what we'll  
7 do is, we'll let you work that out with --  
8 continue discussions with Mr. Jackson at the  
9 appropriate time, if that's okay, Ms. Nguyen.

10 MS. NGUYEN: Yes, sure.

11 CHAIRMAN HOOD: Let me just ask  
12 this, Mr. Ritting, if we dismiss, if we deny  
13 this, say some miracle happens, something  
14 happens where she works it out with Mr. Jackson,  
15 could she still come back with a different  
16 application?

17 I know there used to be a time frame,  
18 and I didn't want to -- I thought it was a year.

19 OAG STAFF RITTING: That's correct.

20 However, I mean, you could choose to dismiss  
21 it or deny it without prejudice. That is an  
22 option that is available to you, if you so

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 choose.

2 The consequence of denying without  
3 prejudice would mean that she could refile  
4 immediately.

5 CHAIRMAN HOOD: Okay. All right,  
6 Commissioners -- thank you, Mr. Ritting, and  
7 thank you, Commissioner Turnbull, for making  
8 sure that Ms. Nguyen understands.

9 MS. NGUYEN: Thank you for your  
10 time.

11 CHAIRMAN HOOD: Thank you very  
12 much.

13 MS. NGUYEN: Thank you for  
14 everything.

15 CHAIRMAN HOOD: Would somebody like  
16 to make a motion?

17 I would move that we deny without  
18 prejudice Zoning Commission Case No. 08-31, and  
19 ask for a second.

20 VICE CHAIR COHEN: Second.

21 CHAIRMAN HOOD: It's been moved and  
22 properly seconded. Any further discussion?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 All those in favor, aye?

2 (Ayes.)

3 CHAIRMAN HOOD: Not hearing any  
4 opposition, Ms. Schellin, would you please  
5 record the vote?

6 SECRETARY SCHELLIN: Staff records  
7 the vote 4:0:1 to deny Zoning Commission Case  
8 08-31, without prejudice, Commissioner Hood  
9 moving, I heard three voices, I think  
10 Commissioner Cohen was loudest, seconding,  
11 Commissioners May and Turnbull in support, third  
12 mayoral appointee position vacant, not voting.

13 CHAIRMAN HOOD: And,  
14 Commissioners, that was a tough one, as was  
15 stated by Commissioner May and Commissioner  
16 Cohen, hopefully, those discussions with the  
17 Office of Planning and the neighborhood ANC,  
18 and the Council can work out a better solution.

19 And, I appreciate you again, Mr. Turnbull, for  
20 recognizing or conveying -- some time we have  
21 to work within our rules, and our guidelines.

22 Okay. Next, correspondence, we

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 have quite a bit under correspondence.

2 Zoning Commission Case No. 11-03,  
3 this is a request of Harbour Square Owners, Inc.,  
4 for a minor modification of Order No. 11-03 and  
5 applicant's response.

6 Ms. Schellin.

7 SECRETARY SCHELLIN: Yes, sir.

8 There was an additional filing from  
9 Mr. Hitchcock, who initiated this, and I believe  
10 we got that this afternoon. He -- one of the  
11 things that was pointed by OAG was that he  
12 observed the applicant and/or other parties by  
13 U.S. mail, but later this afternoon he did  
14 forward them a copy by email, but that's all  
15 staff has about that.

16 CHAIRMAN HOOD: Okay,  
17 Commissioners, we have in front of us a request,  
18 and, you know, I think the first issue for me  
19 on this, colleagues, is that the request is  
20 coming from someone who has not been granted  
21 party status. I think before we get into the  
22 merits, and looking back at this, this is

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 something that someone who was not granted party  
2 status, and I'm not quite sure if they even have  
3 any reconsideration efforts. It only comes  
4 from someone who is granted party status.

5 Mr. Ritting, am I correct on that  
6 assumption?

7 OAG STAFF RITTING: This has been  
8 placed on the consent calendar as a request for  
9 a minor modification. And, it indicates, the  
10 correspondence indicates that it's a request  
11 for a minor modification.

12 So, the Commission's minor  
13 modification rules, that's 3030.3 says parties  
14 may request minor modifications, and it doesn't  
15 say that anyone else may.

16 So, that's the rule that you are  
17 thinking of.

18 CHAIRMAN HOOD: So, I think that  
19 keeping in mind the spirit of our regulations,  
20 I think this is -- I don't want to say out of  
21 place, the requester may not have known that  
22 they needed party status to enter into something

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 of a modification, a minor modification with  
2 the Commission.

3 So, I think this is out of scope,  
4 I think this is not -- well, it's in our  
5 jurisdiction, but I don't think this is properly  
6 before us.

7 So, what I would like to do, let me  
8 open it up, before I make a motion any comments?

9 COMMISSIONER MAY: I agree. I  
10 don't think that this group has the standing  
11 to request a minor modification, so it should  
12 be dismissed on that ground.

13 CHAIRMAN HOOD: Okay. I would move  
14 that we dismiss the request for lack of standing  
15 in Zoning Commission Case No. 11-03, request  
16 by Harbour Square Owners, Inc., as their request  
17 is so noted, and ask for a second.

18 COMMISSIONER MAY: Second.

19 CHAIRMAN HOOD: Okay. It's been  
20 moved and properly seconded. Any further  
21 discussion?

22 I need to ask -- thank you for

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 bringing that to my attention, that that was  
2 left out. Let me restate my motion.

3 I would move that we dismiss Zoning  
4 Commission Case No. 11-03, and that the Order  
5 of Dismissal indicate the second stage issue  
6 that was raised, we will not revisit its  
7 suitability as the location of a residential  
8 building, and ask for a second.

9 COMMISSIONER MAY: Well, we didn't  
10 discuss that. I'm not sure I want to get into  
11 that, so I would not -- if you are modifying  
12 your original motion.

13 CHAIRMAN HOOD: Let me open it up  
14 for discussion, because see here's the thing.

15 I think the request included, and what we need  
16 to do is state that we are not going to revisit  
17 that unless you want to revisit that. And, it's  
18 not properly before us, so, I mean, if you want  
19 to --

20 COMMISSIONER MAY: I just don't  
21 feel like we have any information on which to  
22 base our establishing something at this moment,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 with regard to the suitability.

2 I mean, it may not be suitability  
3 for environmental purposes, so it may not be  
4 in the future submission, because they couldn't  
5 get approval from whoever they need to get  
6 approval from. I mean, it's not just us that  
7 we need to give approval.

8 So, I think we just dismiss this for  
9 lack of standing, and leave it at that.

10 CHAIRMAN HOOD: Okay, thank you,  
11 Ms. Schellin and Mr. Ritting. Let me go back  
12 to my original motion that we dismiss -- and  
13 sometimes that happens, we want to make sure  
14 we are legally sufficient, and these are some  
15 of the issues we get into.

16 Let me move that we dismiss the  
17 Zoning Commission Case No. 11-03, and ask for  
18 a second.

19 COMMISSIONER MAY: Second.

20 CHAIRMAN HOOD: It's been moved and  
21 properly seconded. Any further discussion?

22 All those in favor?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 (Ayes.)

2 CHAIRMAN HOOD: Not hearing any  
3 opposition, Ms. Schellin, would you record the  
4 vote?

5 SECRETARY SCHELLIN: Yes. Staff  
6 records the vote 4:0:1, to dismiss the request  
7 of Harbour Square Owners, Inc., Commissioner  
8 Hood moving, Commissioner May seconding,  
9 Commissioners Cohen and Turnbull in support,  
10 third mayoral appointee position vacant, not  
11 voting.

12 CHAIRMAN HOOD: Okay. Next,  
13 Zoning Commission Case 11-12, West End Library  
14 Advisory Group's motion for reconsideration and  
15 rehearing, and applicant's response thereto.

16 Ms. Schellin.

17 SECRETARY SCHELLIN: Staff has  
18 nothing else to add for this one.

19 CHAIRMAN HOOD: Okay. Let's open  
20 that up for discussion. Is anyone inclined on  
21 their request?

22 VICE CHAIR COHEN: Mr. Chairman,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 the request was made based on, there wasn't any  
2 discussion of the fire house. And, I think that  
3 that is incorrect. We vetted that thoroughly,  
4 and so I don't believe that there is really any  
5 standing here for making an argument to  
6 reconsider. I'm sorry.

7 CHAIRMAN HOOD: Anyone else?

8 COMMISSIONER TURNBULL: Mr. Chair,  
9 I would just say that I -- you know, after reading  
10 the applicant's letter, and then looking at the  
11 applicant's -- the Holland & Knight reply for  
12 East Bank Park, I'm in agreement with the Holland  
13 & Knight explanation and the response, and I  
14 would say that we should not allow this, to  
15 dismiss it.

16 CHAIRMAN HOOD: Okay. I would  
17 agree. I think as was stated by both of my  
18 colleagues, we fleshed this out exhaustively  
19 during the proposed, and then again at the final  
20 action.

21 So, I would not be inclined to  
22 reconsider. I know it was fleshed out a lot,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 so I would not be inclined to reconsider.

2 Anyone else?

3 Okay. Would somebody like to make  
4 a motion?

5 COMMISSIONER TURNBULL: Excuse me.

6 I would -- how are we doing this on this  
7 correspondence, are we saying that we are going  
8 to dismiss, deny, West End Advisory Group's  
9 motion for reconsideration and rehearing of the  
10 applicants, West End Advisory Group's motion  
11 for reconsideration and rehearing on Zoning Case  
12 No. 11-12.

13 VICE CHAIR COHEN: I'll second  
14 that.

15 CHAIRMAN HOOD: It's been moved and  
16 properly seconded. Any further discussion?

17 All those in favor?

18 (Ayes.)

19 CHAIRMAN HOOD: Not hearing any  
20 opposition, Ms. Schellin, would you record the  
21 vote?

22 SECRETARY SCHELLIN: Yes. Staff

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 records the vote 4:0:1, to deny the request by  
2 West End Library Advisory Group, for  
3 reconsideration, rehearing, Commissioner  
4 Turnbull moving, Commissioner Cohen seconding,  
5 Commissioners Hood and May in support, third  
6 mayoral appointee position vacant, not voting.

7 CHAIRMAN HOOD: Okay. Next we have  
8 Zoning Commission Case No. 11-07, this is a  
9 request by ANC 3-D for motion for  
10 reconsideration and rehearing and applicant's  
11 response thereto.

12 Ms. Schellin.

13 SECRETARY SCHELLIN: Yes, sir. I  
14 think that everything the staff has the  
15 Commission has been provided with, so we have  
16 nothing further. This is -- the first one is  
17 the request from ANC 3-D.

18 CHAIRMAN HOOD: This is Exhibit 616  
19 and 618, okay, so that's Exhibit 616 and 618.

20 Let's open it up for discussion.  
21 Anyone interested in reconsideration. The ANC  
22 has outlined what they consider to be a number

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 of flaws or things that we did not consider,  
2 or that we didn't deal with, or that they raised  
3 that they don't feel like were properly  
4 addressed.

5 And, with the order it was basically  
6 out, and on and on.

7 I am not inclined to agree with the  
8 ANC on this. I think we've exhausted. We have  
9 had plenty of discussion, and I think that with  
10 all the outstanding moving parts and moving  
11 issues we did what we could to try to submit  
12 an order again.

13 I go back to the liaison group, and  
14 I'm not going to talk about American University,  
15 I've been there. It seems to be working in other  
16 places, and that's just my comments, but I'll  
17 open it up for any comments.

18 COMMISSIONER MAY: I would agree  
19 with you, Mr. Chairman.

20 CHAIRMAN HOOD: Okay. Anyone else?

21 COMMISSIONER TURNBULL: I concur  
22 with you.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 CHAIRMAN HOOD: All right. So, I  
2 would move that we deny request 11-07, request  
3 by ANC 3-D for motion for reconsideration and  
4 rehearing, and ask for a second.

5 COMMISSIONER TURNBULL: Second.

6 CHAIRMAN HOOD: Okay. It's been  
7 moved and properly seconded. Any further  
8 discussion?

9 All those in favor?

10 (Ayes.)

11 CHAIRMAN HOOD: Any opposition?  
12 Abstentions? So ordered.

13 Staff, would you record the vote?

14 SECRETARY SCHELLIN: Yes. Staff  
15 records the vote 3:0:2, to deny the request for  
16 reconsideration and rehearing, as submitted  
17 by ANC 3-D, in Zoning Commission Case 11-07,  
18 Commissioner Hood moving, Commissioner Turnbull  
19 seconding, Commissioner May in support,  
20 Commissioner Cohen not voting, having not  
21 participated, and the third mayoral appointee  
22 position vacant, not voting.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 CHAIRMAN HOOD: Okay. We probably  
2 should have took this one up at the same time,  
3 11-07. We'll do it now.

4 Again, we have another request,  
5 Zoning Commission Case No. 11-07, request of  
6 Robert Herzstein for motion for reconsideration  
7 and rehearing. And, we also have the  
8 applicant's response.

9 Ms. Schellin.

10 SECRETARY SCHELLIN: Staff has  
11 nothing further to add.

12 CHAIRMAN HOOD: Okay.  
13 Commissioners, let me open it up.

14 As you see, the two issues that Mr.  
15 Herzstein raises, and he goes into detail, he  
16 says that, on page 56 he talks about the  
17 inadequate landscape and screening, and  
18 impractical revision regarding dispute  
19 resolution.

20 Again, sorry, Mr. Herzstein, but I  
21 think that this was exhausted, and he,  
22 basically, goes on in his last paragraph and

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1        says, it says, he was a party in the Campus Plan  
2        proceeding and has issues with the University  
3        that are sometimes distinct from one or more  
4        severe than those of other neighbors, because  
5        of the long boundary his home shares with the  
6        campus.    Thus, he should have standing as a  
7        member of the Liaison Committee, and should not  
8        have to take positions to some neighborhood  
9        group or ANC to help him qualify for dispute  
10       resolution.

11                    But, Mr. Herzstein, as we were  
12        saying, you know, he's talking to another  
13        person, but he's saying that he should  
14        automatically be a member of the Liaison Group.

15        And, I think that we have exhausted that whole  
16        Liaison Group, at least seeing this as the  
17        omission, is that at least I'm not sure with  
18        the concerns raised by this Commission that the  
19        American University knows the concerns, and I'm  
20        sure that in some form or fashion that Mr.  
21        Herzstein will be involved with the Liaison  
22        Group or what, because of his proximity with

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 his property.

2 So, let me open it up. Any further  
3 discussion? Okay.

4 So, I would move that we deny 11-07,  
5 the request from Mr. Herzstein for motion for  
6 reconsideration and rehearing, and ask for a  
7 second.

8 COMMISSIONER MAY: Second.

9 CHAIRMAN HOOD: Okay. It's been  
10 moved and properly seconded. Any further  
11 discussion?

12 All those in favor?

13 (Ayes.)

14 CHAIRMAN HOOD: Not hearing any  
15 opposition, Ms. Schellin, would you record the  
16 vote?

17 SECRETARY SCHELLIN: Staff records  
18 the vote 3:0:2 to deny the request for  
19 reconsideration and rehearing, submitted by Mr.  
20 Herzstein, Commissioner Hood moving,  
21 Commissioner May seconding, Commissioner  
22 Turnbull in support, Commissioner Cohen not

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 voting, having not participated, third mayoral  
2 appointee position vacant, not voting.

3 CHAIRMAN HOOD: 11-07A, request  
4 from ANC 3-D for motion for reconsideration and  
5 rehearing.

6 Ms. Schellin.

7 SECRETARY SCHELLIN: The  
8 Commission has the submissions that were made,  
9 and we have nothing further to add.

10 CHAIRMAN HOOD: Okay.  
11 Commissioners, any comments?

12 Commissioner Turnbull?

13 COMMISSIONER TURNBULL: Mr. Chair,  
14 I would just agree with the applicant's  
15 response, Exhibit No. 41, and I think they,  
16 basically, reiterate that all of these items  
17 were considered and addressed during the  
18 hearing, and that we should deny ANC 3-D's  
19 request for a stay of the order.

20 And, basically, they are also saying  
21 that they failed to satisfy the test for  
22 injunctive relief, and I would agree with that.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 CHAIRMAN HOOD: Again, I think we  
2 exhausted -- you know, we had lengthy hearings  
3 on a lot of this, and we went through specific  
4 issues on these. And, we rehashed the rehearing  
5 with no new evidence -- I don't want to say it's  
6 a waste of time, but I think we won't find  
7 anything different than where we landed with  
8 the input.

9 So, I think this Commission did the  
10 best they could with the Campus Plan. This is  
11 my second time dealing with American University  
12 on the Campus Plan, and, hopefully, we are  
13 starting to see gradual improvement. It may  
14 not be the immediate issue on what the neighbors  
15 want to hear right away, but I think with the  
16 liaison we are hoping that piece works.

17 I know they keep talking about it,  
18 but I've been in this City a while, and I'm seeing  
19 where it's working in other places, and it needs  
20 to work here.

21 So, I would move that we deny the  
22 request 11-07A and ask for a second.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 COMMISSIONER TURNBULL: Second.

2 CHAIRMAN HOOD: It's been moved  
3 and properly seconded. Any further discussion?

4 All those in favor?

5 (Ayes.)

6 CHAIRMAN HOOD: Not hearing any  
7 opposition, Ms. Schellin, would you record the  
8 vote?

9 SECRETARY SCHELLIN: Yes. Staff  
10 records the vote 3:0:2 to deny the request from  
11 the ANC for reconsideration and rehearing in  
12 Zoning Commission Case 11-07A, Commissioner  
13 Hood moving, Commissioner Turnbull seconding,  
14 Commissioner May in support, Commissioner Cohen  
15 not voting, having not participated, third  
16 mayoral appointee position vacant, not voting.

17 CHAIRMAN HOOD: And also, I did note  
18 about what the Court of Appeals said about great  
19 weight, that was mentioned in this whole thing.

20 It mentioned that the requirement that the  
21 Commission must accept the views of the ANC no  
22 matter what, all the demands and the views of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 the ANC be specifically addressed.

2 As to the ANC's motion, the Court  
3 of Appeals has held up the great weight  
4 requirement, it does not mean that the  
5 Commission must accept every view that the ANC  
6 brings before us, but you are supposed to  
7 consider and be able to answer to it. And,  
8 that's already been dealt with in the Court of  
9 Appeals.

10 But, we do give ANCs great weight.

11 We give community great weight, and we've done  
12 that for years, at least as long I've been here.

13 It doesn't mean that we always agree. Just  
14 because we don't agree with exactly what you  
15 want us to do, or the Commission makes a decision  
16 outside of the scope of what you want, does not  
17 mean you were not given great weight. It means  
18 that we consider it, and we do give it weight,  
19 just like we give the Office of Planning, by  
20 law we are required to do that.

21 Okay. Anything else? Do we have  
22 anything else?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 Does the Office of Planning have  
2 anything?

3 Ms. Steingasser.

4 MS. STEINGASSER: Yes, sir. We  
5 have a quick status report.

6 I'd like to report on Thursday there  
7 was a press conference held in Georgetown, at  
8 the corner of P and 27th Street, where the  
9 University and the ANC, Burleith Citizens  
10 Associations, Foxhall and CAG, all announced  
11 resolution of the dispute between them.

12 They'll be bringing -- the mayor was  
13 there, President DeJoy was there.

14 CHAIRMAN HOOD: I wish somebody  
15 would have invited me.

16 MS. STEINGASSER: It was a great  
17 afternoon, lots of back slapping, hugging, arms  
18 in the air.

19 So, that will be coming to you, it  
20 will be in a slightly different form. They've  
21 agreed on a seven-year continuum plan, and then  
22 during which time they'll be working on a longer

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 term vision plan of 20 years. So, that will  
2 be coming to you, I think you've already granted  
3 them an extension.

4 The other thing we wanted to update  
5 you briefly on is the ZRR and our request to  
6 be moving forward with some text amendments.

7 Office of Attorney General has asked  
8 us to include some technical corrections,  
9 amendments that they see pressing through the  
10 Board of Zoning Adjustment, as well as Mr.  
11 Turnbull's request that we adjust for the  
12 extension.

13 We put together, in working with our  
14 internal staff, OAG, and then conferring with  
15 the task force, four groupings of topics.  
16 Parking, accessory dwellings, sustainability  
17 and administration.

18 The sustainability would be  
19 bringing forward the GAR, which the Commission  
20 has already heard through guidance and through  
21 draft text for the current regs in 2010, the  
22 pervious surface standards for the residential

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 area, which the Commission was also very in favor  
2 of, and landscape standards for parking lots,  
3 including tree canopy and an increased screen  
4 space. So, those three would come forward as  
5 one grouping.

6 Administration would be the BZA rule  
7 that we just discussed, about allowing more than  
8 one extension. The height measuring rule,  
9 Office of Attorney General was quite  
10 complimentary on the work that was done on the  
11 height early on, through the task force, and  
12 then through the Commission, and suggested that  
13 we bring that forward. That would lower the  
14 measuring point slightly, so that it's in the  
15 middle of the roof, instead of right now it's  
16 at a ceiling, which you end up with these large  
17 peaks. This kind of would set the measuring  
18 point in the middle between the eave and pitch  
19 of the roof, creating an effective lowering.

20 Specifically, the Office of  
21 Attorney General asked us to bring forward a  
22 rule formalizing the best and final offers for

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 PUDs that the Commission now does through  
2 practice, and to clarify that an increase in  
3 non-conforming FAR is an area variance, not a  
4 use variance, because that's one that bounces  
5 back and forth a lot between the BZA.

6 In the parking category, that will  
7 probably be coming back to you this fall. We  
8 are working with DDOT. They are holding a  
9 series of community meetings on their street  
10 parking management. So, we will be working with  
11 them.

12 What we are proposing to bring  
13 forward would be amendments only in the downtown  
14 and high-density commercial areas, the DD  
15 overlay, the commercial Capitol Gateway, which  
16 is the stadium area, the C4 and C5s, most uses  
17 in the C4 and C5 currently do not have parking  
18 requirements, and in the TDR receiving zones,  
19 which are the area north of the stadium area  
20 and NoMa.

21 What we are proposing there would  
22 be what we've discussed in the past, and at the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 public hearing in 2009, which is to relieve the  
2 parking minimums, and to allow for parking and  
3 loading sharing between the two.

4 We would also, because it's an  
5 opportunity while we are looking at parking,  
6 we've been asked to include language that  
7 clarifies that the BZA can, if so proven through  
8 evidence, require more parking for private  
9 schools. That was an issue that we've heard  
10 a lot of through the neighborhoods.

11 The 16th Street height overlay also  
12 requested that we specify that a transportation  
13 management plan be required, so that when an  
14 applicant comes forward for an institutional  
15 use that that would be -- they would clearly  
16 understand that.

17 And then, we'd also like to include  
18 bike standards. So, we would group all of those  
19 together for one hearing.

20 And then finally, accessory  
21 dwellings. Currently, accessory dwellings are  
22 allowed in your R-1 Zones, you are allowed both

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 an accessory apartment inside the principal unit  
2 by special exception, and what we call a  
3 domestics quarters by right on top of garage  
4 and detached.

5 There is no definition of what  
6 constitutes a domestics employee. It could be,  
7 you know, your tenant could mow the lawn once  
8 a month, they work for you, they are a domestic,  
9 and you can have this right.

10 What we are proposing is to extend  
11 accessory dwellings in the R-2 and R-3, because  
12 the Board of Zoning Adjustment have, by virtue  
13 of their own special exception execution,  
14 allowed that waiver already. So, inasmuch as  
15 they've established a rule through practice.

16 We are also suggesting, would be  
17 suggesting, that in the R-1 zones the accessory  
18 dwellings be limited to one, and that that one  
19 be either internal or external, and that it would  
20 be then considered, either by special exception  
21 on the -- I'm sorry, it would be matter of right  
22 if it's internal to the house, and we are

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 currently looking at how we would propose to  
2 regulate it if it's external.

3 But, instead of having two accessory  
4 dwellings, plus your principal, there would only  
5 be one accessory dwelling plus principal. We  
6 are proposing no changes to the parking in  
7 regards to that, and we are proposing no increase  
8 in the size. So, the size restriction, parking  
9 restriction, as well as the principal residence  
10 of the property owner, would all be required,  
11 would stay required.

12 So, those are the gist of our main  
13 proposals. We think it's important to be able  
14 to bring those to you in a way that can have,  
15 we think, much more meaningful discussion. To  
16 make amendments to the current Code, the current  
17 Code is something, as we all know, the community  
18 understands the language, trying to make these  
19 amendments in the context of a new Code  
20 provision. There's a lot of confusion over the  
21 new language, the new nomenclature, things are  
22 getting lost, and suspicion is being raised when

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 we find a typo, people find a typo. And, they  
2 think it's on purpose.

3 So, this allows these amendments to  
4 be made, to become effective, and for the  
5 Commission to weigh in, in your standard  
6 format, in your standard process, with  
7 notification coming from the Office of Zoning,  
8 and have a discussion that I think would be much  
9 more meaningful for the community, because they  
10 are going to understand. We've tried to limit  
11 the policy focus to one thing at a time, so that  
12 while we may be able to group two of these  
13 together at one hearing, so that we think we  
14 could probably do two topics per public hearing,  
15 the topics themselves will be adjustable,  
16 they'll be understandable, and the things that  
17 the Commission has already seen through the  
18 guidance program.

19 So, that's, I guess, what we are  
20 asking for concurrence, or lack of objection,  
21 however you'd like to deal with that.

22 CHAIRMAN HOOD: Any comments,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 Commissioners.

2 Commissioner May, go ahead.

3 COMMISSIONER MAY: I was just going  
4 to say, I mean, what you are describing is only  
5 a portion. And so, the balance, and we've  
6 already had a number of guidance hearings having  
7 to do with how we might look at things a little  
8 bit different in some areas, and try to make  
9 the regulations less difficult to follow.

10 OP STAFF STEINGASSER: Yes.

11 COMMISSIONER MAY: All that will  
12 still happen.

13 OP STAFF STEINGASSER: That will  
14 still happen. We have found it very  
15 challenging, and it's created a lot of confusion  
16 and angst amongst the public at large, to have  
17 to be changing language while we are trying to  
18 introduce some of these policies.

19 The policies can be easily  
20 incorporated into the current regulations, and  
21 standard process, like we do every other text  
22 amendment, and then when we -- if you find these

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 four successful we could bring others. We have  
2 a series of others. There's the campus plan  
3 regulations. There's technical clean up to the  
4 PUDs, and we could bring those back. But, the  
5 readjustment, reformatting, that will continue,  
6 but it would be much easier to do that as a  
7 translation, than trying to include the text.

8 COMMISSIONER MAY: I'm  
9 disappointed some of that is not lost, because  
10 I thought one of the great values of what you  
11 are doing, and doing it comprehensively, is  
12 trying to make the structure of the Code more  
13 sensible, which I think is very important.

14 Thanks.

15 CHAIRMAN HOOD: Commissioner  
16 Turnbull?

17 COMMISSIONER TURNBULL: I just had  
18 a selfish question about the administrative  
19 aspect of what you are doing.

20 OP STAFF STEINGASSER: Yes, sir.

21 COMMISSIONER TURNBULL: What's  
22 your time line on this?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1                   OP STAFF STEINGASSER:   We would  
2     like to bring all of the text amendments to you  
3     in July, with the exception of parking, which  
4     we would probably bring in September or October.

5                   COMMISSIONER TURNBULL:   Okay.    I  
6     just wanted to be able to address concerns of  
7     our colleagues on the BZA.

8                   CHAIRMAN HOOD:           Okay.       Ms.  
9     Steingasser, help me to understand.   We are  
10    going to be bringing -- we are going to be  
11    possibly having this for set down in July.

12                  OP STAFF STEINGASSER:   Yes, sir.

13                  CHAIRMAN HOOD:   Now, after we set  
14    it down, then you are going to -- once we say,  
15    okay, this is good to take out to the outreach,  
16    you are going to be doing outreach, I guess?

17                  OP STAFF STEINGASSER:   We'll be  
18    continuing with our outreach, as well as the  
19    Office of Zoning will be doing its standard  
20    notification.

21                  And, I do want to clarify one thing.  
22    The task force was, while they were supportive,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1       there was one or two members who were hesitant,  
2       who did not want to take these text amendments.

3       So, I just want to be -- I don't want to  
4       misrepresent that there's unanimity amongst the  
5       task force. There is the same variety of  
6       opinion that there has always been.

7               But, we will continue to do our  
8       outreach, and, you know, I do have a log of the  
9       meetings that we've had since 2012, since the  
10      program began. So, if the Commission feels  
11      tired, that's because the Commission has had  
12      42 public meetings. The Zoning Commission alone,  
13      42 public meetings discussing this.

14             So, if you are wondering why you are  
15      holding your head, that's why. You've already  
16      had 42 since 20 -- since the summer of 2007,  
17      when you started with the roundtables.

18             CHAIRMAN HOOD: Let me ask this,  
19      too, Ms. Steingasser.

20             I remember going to a height work  
21      group.

22             OP STAFF STEINGASSER: Yes, sir.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1                   CHAIRMAN HOOD:       And, we were  
2     talking about coupling things together. I would  
3     assume that we are going to probably do -- come  
4     in to the Zoning Commission -- well, I know you  
5     said we are going to try to do groups, but I  
6     would like to see us think about it, because  
7     I know height, when I went to that work group,  
8     that work group took a long time. It took a  
9     while, that whole process, and I think we had  
10    to pull it back, and then I had to go back out  
11    there and redo it again.

12                  OP STAFF STEINGASSER: Yes, sir.

13                  CHAIRMAN HOOD:    So, when we start  
14    looking at hearings, Ms. Schellin, Ms.  
15    Steingasser, I think we need to allow -- make  
16    sure we have allowed enough time for that  
17    five-hour hearing on height.

18                  And, I don't know if we need to  
19    couple something that night together, but I will  
20    leave that up to staff. We'll probably need,  
21    for those major issues, those hot button issues,  
22    as you say, we probably need a whole night, if

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 not two, for those issues. And, I'm sure a lot  
2 of residents want -- I believe a lot of residents  
3 want to come down and testify, and I want to  
4 make sure we afford them that opportunity.

5 The other thing is, maybe we can do  
6 it like we are getting ready to do a case that's  
7 coming up, we say we are going to continue it.

8 So, we finish, we won't waste a whole night,  
9 and we can go right into the next one. I'm not  
10 sure how we would do that.

11 We are getting ready to find out real  
12 soon how that works. I just think if we way  
13 we are going to do height, and I think you said  
14 accessory units, and some other issues that you  
15 brought up, and we say we are going to do those  
16 for one night, I don't know if we can finish  
17 that in one night.

18 I mean, that's my question.

19 OP STAFF STEINGASSER: Yes. We'll  
20 work on how we group them together. We think  
21 some of the technical amendments can probably  
22 move through.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1                   What we are finding with accessory  
2 dwellings is, the education curve, that people  
3 didn't know they could have them. They didn't  
4 know they could have two already, so when we  
5 talk about limiting them to one, there's a gasp  
6 where people think we are introducing one,  
7 whereas, we are actually restricting one.

8                   So, there's some education on what  
9 the current zoning allows, and what our  
10 proposals are.

11                  CHAIRMAN HOOD:     Has there been  
12 other interest in other areas of the City that  
13 you hadn't heard from previously, that you are  
14 starting to hear more from now? Like Ward 7,  
15 for example.

16                  OP STAFF STEINGASSER:     Well, we  
17 have -- I mean, I'm happy to pass out the roster  
18 of the community groups we've been to. We've  
19 been into every ward in the City.

20                  You know, Saturday we were at the  
21 Ward 8 Summit. We've been in every ward. So,  
22 there are -- there's a heightened interest, I

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 would say right now, because there is kind of  
2 a lot of public information flying around, both  
3 correct and incorrect.

4 But, we've been -- you know, we've  
5 been all over the City. I think OP itself has  
6 had over 38 public community meetings, 17 of  
7 which have been with the ANCs, in addition to  
8 what's been before the Zoning Commission.

9 CHAIRMAN HOOD: And, I think you are  
10 scheduled for the 19th in Ward 7?

11 OP STAFF STEINGASSER: The 19th and  
12 the 14th. We'll be going to ANC 7C on the 14th.

13 Mr. Lawson will be going with the work planner.

14 And then, we'll be going, you and I, to the  
15 Civic Federation Association on the 19th.

16 CHAIRMAN HOOD: Okay.

17 VICE CHAIR COHEN: I have a  
18 question.

19 CHAIRMAN HOOD: All right. Vice  
20 Chairperson Cohen.

21 VICE CHAIR COHEN: Yes. I'm  
22 curious, since the task force, obviously, is

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 made up of many individuals with different  
2 opinions, what were some of the -- why were some  
3 people reserved to go out now with different  
4 topics?

5 OP STAFF STEINGASSER: There was a  
6 concern, and I don't -- I only get in trouble  
7 when I try to paraphrase these opinions, there  
8 was some concern that, perhaps, there would be  
9 more understanding if they could see how the  
10 pieces fit together in the new Code.

11 Our feeling is, as long as we stay  
12 with one issue at a time, it's easier for people  
13 to understand it in the current Code, because  
14 not all -- the new provisions aren't all vetted  
15 out, and as you vet one piece -- so things like  
16 accessory dwellings, well, right now you can  
17 have two and a principal house in an R-1 Zone.

18 You know, that's a discreet question that can  
19 be answered in the context of our current zoning.

20 VICE CHAIR COHEN: I'm going to  
21 reserve my opinions about this, because as a  
22 person who is fairly new to the nuances and the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 zoning, I think I can be pretty objective about  
2 this. So, if I'm having a hard time grappling  
3 with it, you know I will speak up.

4 OP STAFF STEINGASSER: Yes, ma'am.

5 CHAIRMAN HOOD: One other thing.  
6 I think one of the things, Ms. Steingasser, and  
7 I know budgets are tight, and I'm willing to  
8 go up to the Mayor and ask myself, Channel 16,  
9 I think that would help us from running around  
10 doing a lot of this, if we could do that.

11 Have we looked into that yet?

12 OP STAFF STEINGASSER: We have not.

13 The webcast is live, of course, and then the  
14 video on demand is usually ready within two days.

15 So, if people were interested in the hearing,  
16 they could call it right up by just going to  
17 the Office of Zoning website.

18 CHAIRMAN HOOD: But, I just wonder  
19 if we should explore that. That may cut back.

20 And, if I need to try to help, I mean, you know,  
21 the best thing we can be told is no.

22 OP STAFF STEINGASSER: Oh, you are

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 talking about having them go with us to community  
2 meetings.

3 CHAIRMAN HOOD: No. I mean, if we  
4 start advertising some things on 16.

5 OP STAFF STEINGASSER: Oh,  
6 advertising, I see.

7 CHAIRMAN HOOD: I don't know how the  
8 government -- the District government, works  
9 as far as paying, you have to pay, and all that  
10 kind of stuff. And, that will be something  
11 I will be willing to go up to the Mayor with.

12 OP STAFF STEINGASSER: Okay. I  
13 didn't understand your request, I'm sorry.  
14 Yes, we'll absolutely look into that.

15 CHAIRMAN HOOD: If we did a town  
16 hall, say, in Ward 5, I don't know where I came  
17 up with 5, if you did a town hall in Ward 5,  
18 then you could record it, and kind of make it  
19 inclusive to everything across the City. I know  
20 different wards have different things, I'm not  
21 saying that every ward is the same, but I think  
22 that will start getting the genesis out to those

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 that we are missing that don't go to the website,  
2 that don't watch us, spending Mondays and  
3 Thursdays, and Tuesday afternoons watching us.

4 And then, when we get to the point  
5 where they say, well, I didn't know about, more  
6 people are saying, oh, I saw it on 16. People  
7 will probably look at 16 more than do some other  
8 things.

9 OP STAFF STEINGASSER: Right.  
10 Okay. Yes, we can definitely look at that.

11 CHAIRMAN HOOD: If I can help with  
12 that, go and ask the Mayor, I'll do that.

13 OP STAFF STEINGASSER: And, we are  
14 going out to Ward 5 to the upper --

15 CHAIRMAN HOOD: Northeast?

16 OP STAFF STEINGASSER: -- it's an  
17 Ecumenical Council Community Fair on Health and  
18 Safety in July, and we'll be there talking a  
19 lot about some of the different initiatives that  
20 will be coming through.

21 CHAIRMAN HOOD: All right. Any  
22 other -- and also, I want to thank you, Ms.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 Steingasser, for the good news that happened  
2 Thursday. This Commission gets beat up quite  
3 a bit, as I know Office of Planning and Office  
4 of Zoning, we all get beat up quite a bit. But,  
5 at the end of the day, I don't know if I should  
6 say it, because they haven't come in front of  
7 us yet, but at the end of the day it sounds good  
8 for the report that you gave us. So, we really  
9 appreciate it. That shows that our work did  
10 not go in vain, and that's all of our work.

11 So, that's a positive note, and I  
12 think what we can do is end on that positive  
13 note.

14 Any other questions for the Office  
15 of Planning?

16 Okay. I want to thank everyone for  
17 their participation, and for their hard work.

18 And, I really like that last comment that Ms.  
19 Steingasser made about everybody coming  
20 together over this.

21 So, with that, this meeting is  
22 adjourned.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 (Whereupon, the above-entitled  
2 matter was concluded at 8:07 p.m.)  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)