

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

PUBLIC MEETING

+ + + + +

MONDAY

DECEMBER 13, 2004

+ + + + +

The Public Meeting of the District of Columbia Zoning Commission convened at 6:45 p.m. in the Office of Zoning Hearing Room at 441 4th Street, Northwest, Washington, D.C., Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chairperson
ANTHONY J. HOOD	Vice Chairperson
JOHN PARSONS	Commissioner
GREGORY JEFFRIES	Commissioner
KEVIN HILDEBRAND	Commissioner

OFFICE OF ZONING STAFF PRESENT:

ALBERTO BASTIDA	Secretary
SHARON SCHELLIN	Zoning Specialist

(This transcript constitutes the minutes from the regular meeting held on Monday, December 13, 2004.)

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

APPEARANCES (Continued)

OFFICE OF PLANNING STAFF PRESENT:

ELLEN McCARTHY	Deputy Director
JENNIFER STEINGASSER	Office of Planning
DAVE McGETTIGAN	Office of Planning
MAXINE BROWN-ROBERTS	Office of Planning

OFFICE OF THE ATTORNEY GENERAL PRESENT STAFF PRESENT:

JACOB RITTING, ESQ.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

C-O-N-T-E-N-T-S

<u>AGENDA ITEM</u>	<u>PAGE</u>
I. <u>PRELIMINARY MATTERS</u>	NONE
II. <u>ACTION ON MINUTES</u>	6
A. Public Meeting Minutes (draft) of September 13, 2004 (1168th Session)	
B. Special Public Meeting Minutes (draft) of September 30, 2004 (1169th Session)	
C. Public Meeting Minutes (draft) of October 25, 2004 (1170th Session)	
D. Public Meeting Minutes (draft) of November 8, 2004 (1171st Session)	
VOTE ON MOTION TO APPROVE MINUTES FROM THE SEPTEMBER 13, OCTOBER 25, AND NOVEMBER 8 MEETINGS	8
VOTE ON MOTION TO APPROVE MINUTES FROM THE SEPTEMBER 30, 2004 MEETING	9
III. <u>STATUS REPORT</u>	10
A. Office of Planning Monthly Status Report	
IV. <u>CONSENT CALENDAR</u>	NONE
V. <u>HEARING ACTION</u>	13
A. Z.C. Case No. 04-25 (Map Amendment- Catholic University)	
VOTE ON MOTION TO SET DOWN CASE NO. 04-25	15
B. Z.C. Case No. 04-30 (Citadel PUD)	
VOTE ON MOTION TO SET DOWN CASE NO. 04-30	24

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

CONTENTS (Continued)

VI.	<u>PROPOSED ACTION</u>	24
	A. Z.C. Case No. 04-04 (Carver 2000 Tenants Association)	
	SET FOR FEBRUARY 14, 2000 MEETING . . .	50
VII.	<u>FINAL ACTION</u>	41
	A. Z.C. Case No. 03-27 (4600 Brandywine Associates)	
	VOTE ON MOTION TO APPROVE Z.C. CASE NO. 03-27	43
	B. Z.C. Case No. 04-08/02-45 (St. Elizabeths Hospital 2nd Stage PUD)	
	Z.C. CASE NO. 04-08/02-45 POSTPONED UNTIL FURTHER NOTICE	47
	C. Z.C. Case No. 91-2 (ANC 3E - (Map Amendment - Dismissal)	
	VOTE ON MOTION TO DISMISS Z.C. CASE NO. 91-2 WITHOUT PREJUDICE	52

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

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

(6:45 p.m.)

CHAIRPERSON MITTEN: Good evening, ladies and gentlemen. This is the regular monthly meeting of the Zoning Commission of the District of Columbia for Monday, December 13th, 2004. My name is Carol Mitten, and joining me this evening are Vice Chairman Anthony Hood and Commissioners Kevin Hildebrand, John Parsons, and Greg Jeffries.

There are copies of the agenda in the wall bin near the door if you would like to follow along, and I would just remind folks that we are being recorded by the court reporter and also being webcast live, so just keep any noises to a minimum, and I would ask that you turn off all beepers and cell phones so you don't disrupt the meeting.

I am going to start before we even have a preliminary matter when we have a fuller crowd in the hearing room to ask that we make this an especially memorable occasion for Mr. Bastida as this is going to be his last public session with the Zoning Commission after many years of service to us, and you have been the only secretary to the Zoning Commission since I have been here and you have always been very helpful and responsive to me. So I want 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

1 congratulate you on your retirement and give you all
2 best wishes. Thank you.

3 SECRETARY BASTIDA: Thank you, Madam
4 Chairman.

5 (Applause.)

6 VICE CHAIRPERSON HOOD: Madam Chairman,
7 if I could, I would also be remiss -- Mr. Bastida has
8 definitely kept me in line when I was the chair. I
9 want to thank him for all he has done, and he has
10 definitely been an asset to the Office of Zoning and
11 to the Commission.

12 Congratulations.

13 SECRETARY BASTIDA: Thank you, Mr. Vice
14 Chairman.

15 PRELIMINARY MATTERS

16 CHAIRPERSON MITTEN: All right. Then I
17 will ask, do we have any preliminary matters, Mr.
18 Bastida?

19 SECRETARY BASTIDA: The staff has no
20 preliminary matters but in one of the cases will have
21 a preliminary matter.

22 CHAIRPERSON MITTEN: Okay. Thank you.

23 ACTION ON MINUTES

24 CHAIRPERSON MITTEN: Then we will move to
25 the action on the minutes. We have four sets 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

1 minutes in front of us tonight. I think we were all
2 in attendance at all but one, so we can pull the one
3 out and move -- well, I will move approval of the
4 September 13th, October 25th, and November 8th
5 sessions, with room just to make some editorial
6 changes.

7 COMMISSIONER HILDEBRAND: Did you want
8 some editorial changes or --

9 CHAIRPERSON MITTEN: Can we second it?
10 Or we have a second from Mr. Parsons.

11 COMMISSIONER PARSONS: Second.

12 CHAIRPERSON MITTEN: Okay. Sure. We
13 will take those now.

14 COMMISSIONER HILDEBRAND: I was looking
15 at the October 25th, and under Item 7 for Capital
16 Gateway II, it said the Commission deferred action
17 until the October meeting. Should that be the
18 November meeting?

19 CHAIRPERSON MITTEN: Given that that was
20 the October meeting, yes, I think that's right.

21 COMMISSIONER HILDEBRAND: And then on the
22 November 8 session, did we take action there to defer
23 a decision on the tree and slope overlay to January
24 at that meeting? I don't remember seeing that in the
25 meeting minutes.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON MITTEN: I would have to go
2 back and check the agenda for that meeting. If it
3 wasn't that meeting, it would have been the October.

4 COMMISSIONER HILDEBRAND: It would have
5 been October. It was one of those two.

6 CHAIRPERSON MITTEN: Okay. Well, we can
7 make sure that the change is made to the appropriate
8 set of meeting minutes.

9 Anyone else? Okay. Then with the
10 changes that Mr. Hildebrand has suggested and then
11 any others that are non-substantive, all those in
12 favor of approving the September 13th, October 25th,
13 and November 8th meeting minutes please say aye.

14 (Chorus of ayes.)

15 CHAIRPERSON MITTEN: Ms. Schellin, it's
16 unanimous.

17 MS. SCHELLIN: Yes. Staff would record
18 the vote 5 to 0 to 0 to approve the minutes of
19 September 13th, October 25th, and November 8th, 2004,
20 Commissioner Mitten moving, Commissioner Parsons
21 seconding, Commissioners Hildebrand, Hood, and
22 Jeffries in favor.

23 CHAIRPERSON MITTEN: Thank you. And then
24 the special public meeting minutes of September 30th,
25 I wasn't present, so I will just ask that someone who

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 was present would make a motion and second.

2 VICE CHAIRPERSON HOOD: I would move that
3 we approve the September 30th, 2004, with any
4 necessary corrections.

5 COMMISSIONER PARSONS: Second.

6 CHAIRPERSON MITTEN: Is there any
7 discussion?

8 VICE CHAIRPERSON HOOD: No.

9 CHAIRPERSON MITTEN: All those in favor,
10 please say aye.

11 (Chorus of ayes.)

12 CHAIRPERSON MITTEN: None opposed, Ms.
13 Schellin, but I'm not voting because I wasn't there.

14 MS. SCHELLIN: Staff would record the
15 vote 4 to 0 to 1 to approve the special meeting
16 minutes of September 30th, 2004, Commissioner Hood
17 moving, Commissioners Parsons seconding,
18 Commissioners Hildebrand and Jeffries in favor, and
19 Commissioner Mitten not voting having not
20 participated.

21 CHAIRPERSON MITTEN: Thank you.

22 All right. Then we are ready to move to
23 the status report from the Office of Planning. Ms.
24 McCarthy.

25 STATUS REPORT - OFFICE OF PLANNING

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. McCARTHY: Thank you, Madam Chair,
2 members of the Commission. I just wanted to
3 highlight a few items from the status report for you.

4 In particular, about six items down on page 1, you
5 see two individual items, one a text amendment to the
6 Reed Cooke overlay, and one, an inclusionary zoning
7 overlay. Both of those have to do with issues of
8 generating affordable housing as a result of either
9 incentives or requirements. The Campaign for
10 Inclusionary Zoning has submitted a proposal for
11 mandatory inclusionary zoning, and, as we have
12 reported in the past, the Office of Planning has
13 engaged Robinson and Cole and the Meates Group to
14 assist us in developing an economic model and looking
15 at the possibility for incentive-based inclusionary
16 zoning, and the Reed Cooke overlay would alter some
17 of the provisions in the Reed Cooke overlay that
18 provide an extra floor of height or an extra ten feet
19 of height for half of the units being affordable and
20 change the definitions of affordability.

21 Our proposal to the Zoning Commission,
22 since all of these are interrelated, is that rather
23 than try to have public hearings on these
24 individually, we are recommending that this spring,
25 we bring to you a case where we will have our

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 recommendations for inclusionary zoning, the Campaign
2 for Inclusionary Zoning, and the Reed Cooke overlay,
3 and we can have one public hearing where we have
4 everybody talk about whether affordable means 30
5 percent or 50 percent AMI or 80 percent AMI and
6 whether it should be mandatory or voluntary.

7 In terms of efficient use of the
8 Commission's time, we think it's best for all of the
9 inclusionary zoning proposals to be heard together,
10 and we are working as quickly as we can with our
11 consultant and we expect to bring something to you in
12 the next few months so we can do something this
13 spring on all of those proposals.

14 CHAIRPERSON MITTEN: Would you just
15 remind me the reference -- I do recall the reference,
16 but I don't recall all the specifics of it -- the
17 reference in the Reed Cooke overlay to affordable
18 units?

19 MS. McCARTHY: You mean as to what it
20 provides the level of affordability to be?

21 CHAIRPERSON MITTEN: No. Why does it
22 kick in or what kicks it in.

23 MS. McCARTHY: In Reed Cooke overlay, it
24 provides a particular height limitation, but it
25 allows you to go ten feet over the height as long as

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 half of the new units that you gain through that ten
2 feet are affordable and the rest of them can be bonus
3 units.

4 CHAIRPERSON MITTEN: Okay.

5 MS. McCARTHY: And the affordability
6 provision -- does it reference a particular
7 percentage? Yes, I think it wasn't defined in the
8 same way that we now define "affordability" by the
9 HUD-defined standard of area-wide median income and a
10 percentage of that. So the feeling on the part of
11 some of the people in Reed Cooke was that they wanted
12 to specify a lower level of affordability, and we
13 think it makes sense to consider that because that
14 will be one of the questions to deal with in the
15 other inclusionary zoning provisions as well.

16 CHAIRPERSON MITTEN: Okay.

17 MS. McCARTHY: The other thing I would
18 flag is on the last page, the first item under Cases
19 Ongoing, the Neighborhood Commercial Overlay
20 Alternative, the Office of Planning has met with
21 representatives from the Cleveland Park Citizens
22 Association who have developed a simplification and
23 clarification for that overlay with regard to its
24 limitations on restaurants and alcohol-beverage-
25 serving establishments, and so we forwarded that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 language to the Office of the Attorney General and we
2 will work with them on drafting a revised version
3 that should make that a more workable overlay, and we
4 expect to bring that to you shortly.

5 CHAIRPERSON MITTEN: Thank you.

6 Any questions for Ms. McCarthy?

7 Okay. Thank you. I would just like to
8 urge you to stick to your spring deadline on the
9 inclusionary zoning. I am really interested in that
10 not lingering.

11 HEARING ACTION

12 CHAIRPERSON MITTEN: All right.

13 Then we are ready for the first item under Hearing
14 Action, which is Case No. 04-25, which is a -- the
15 case that we are setting down is a map amendment,
16 although there will be a further processing case that
17 will come that doesn't require a set down, and Mr.
18 McGettigan is here to make the presentation.

19 MR. McGETTIGAN: Thank you, Madam Chair,
20 members of the Commission. My name is David
21 McGettigan from the Office of Planning.

22 The Catholic University of America has
23 acquired 49 acres of land to the west of their main
24 campus. It was formerly part of U.S. Government
25 property, therefore doesn't have a zoning

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 designation. It's unzoned land. It is necessary
2 that we set down a map amendment to map it. The
3 university has requested it to be R-5-A. The
4 comprehensive plan designates the area as federal
5 property, so there is no guidance as to what zoning
6 would be appropriate from the comprehensive plan
7 generalized land use map, but R-5-A is fairly low
8 density of our general resident zones. It's
9 compatible with the current zoning, which is R-5-A on
10 the main portion of CUA's campus, and there is also
11 some R-5-A in other areas. We think it's an
12 appropriate zone.

13 We recommend that the map amendment be
14 set down for a public hearing and would make a note
15 that Catholic University should also expand their
16 historic preservation element of their campus plan to
17 include the possible resources that are on this
18 property.

19 Also, the hearing for the further
20 processing and campus plan -- we encourage you to
21 have those on the same date as the zoning map
22 amendment. I will answer any questions.

23 CHAIRPERSON MITTEN: Thank you.

24 Any questions for Mr. McGettigan? Seems
25 pretty straightforward. All right.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Then we have a recommendation from the
2 Office of Planning to set down Case No. 04-25, and I
3 would so move.

4 COMMISSIONER HILDEBRAND: Second.

5 CHAIRPERSON MITTEN: Thank you.

6 Any discussion?

7 (No response.)

8 CHAIRPERSON MITTEN: All those in favor,
9 please say aye.

10 (Chorus of ayes.)

11 CHAIRPERSON MITTEN: It's unanimous.

12 MS. SCHELLIN: Staff will record the vote
13 5 to 0 to 0 to approve for set down Case No. 04-25.
14 Commissioner Mitten moving, Commissioner Hildebrand
15 seconding, Commissioners Hood, Parsons, and Jeffries
16 in favor.

17 CHAIRPERSON MITTEN: Thank you.

18 Next is Case No. 04-30, which is the
19 Citadel PUD, and Ms. Brown-Roberts is here to make
20 that presentation.

21 MS. BROWN-ROBERTS: Good evening, Madam
22 Chairman and members of the Commission. I am Maxine
23 Brown-Roberts.

24 Faison Enterprises and Jamal Sital seek
25 approval for consolidated PUD for the reuse of a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 building known as the Citadel to house a grocery
2 store, office space, and retail uses.

3 To support these uses, the applicant is
4 proposing a total of 130 parking spaces in an
5 existing two-level underground parking garage and two
6 38-foot loading docks. The property is zoned C-2-B
7 and is within the Reed Cooke overlay district.

8 The proposed uses will all be contained
9 within the existing building with mostly internal
10 changes. A feature of the building is a carved roof
11 that gives the main floor of the building a very high
12 roof that a grocery store doesn't need. The
13 applicant has therefore inserted a floor between the
14 roof and the main floor to accommodate the office
15 use.

16 The building is a nonconforming structure
17 and does not meet the height and rear yard
18 requirements, and the applicant is requesting
19 flexibility from these requirements.

20 In addition, based on the proposal, the
21 applicant is seeking flexibility from the FAR,
22 loading, roof structure and dimensions of parking
23 space in the requirements.

24 Regarding the FAR, the Reed Cooke
25 overlay, in Section 1402.2, prohibits any increase in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 FAR over that allowed by the underlying district,
2 which is 1.5 FAR. The proposal requests an FAR of
3 2.08. OP believes that the increase in FAR cannot be
4 granted as part of the PUD and therefore is
5 recommending that the applicant file a variance
6 request to be assessed concurrently with the PUD.

7 The loading requirement is for one
8 55-foot and two 30-foot loading berths in two service
9 spaces. The applicant proposes three 38-foot loading
10 docks to serve the grocery store and site and
11 proposes additional on-street loading areas on both
12 17th Street and Kalorama Road. The applicant is
13 working with DDOT on different scenarios regarding
14 the reassigning and placement of on-street loading
15 spaces.

16 Section 1401.1 prohibits off-premises
17 alcohol beverage sales. The grocery store would like
18 to be permitted to have the sale of wine and beer.
19 Some concerns have been expressed in the community
20 and discussions will continue.

21 Regarding the restaurant, the applicant
22 has since stated that a restaurant will not be
23 feasible at this location and will continue
24 discussions with OP and the community as to an
25 appropriate retail use for the site.

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 The greatest impact of the proposed
2 grocery store will be from added traffic into the
3 area that will be generated. Currently the area
4 experiences traffic problems and has limited
5 on-street parking that must be shared by residents
6 and visitors to the area, especially on weekend
7 nights.

8 DDOT has preliminarily reviewed the
9 applicant's traffic study and has requested that
10 additional studies be conducted to try and mitigate
11 some of the traffic, parking, and loading impacts.

12 As demonstrated in our preliminary
13 report, the applicant meets the standards to be
14 evaluated as a PUD and is not inconsistent with
15 comprehensive plan.

16 Regarding public amenities, the applicant
17 will be having discussions with the community and OP,
18 and some public benefits to be discussed further
19 include first-source agreement, employment of local
20 residents at the grocery store, landscaping and
21 lighting along 17th Street, donation in kind or
22 service to neighborhood organizations that provide
23 affordable housing, measures to help mitigate
24 traffic, and an area of green roof.

25 The applicant has met and has had

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 discussions with various community organizations such
2 as ANC-1C, the Reed Cooke Neighborhood Association,
3 and the group of residents who reside directly to the
4 south of the property. Common concerns of these
5 groups are the impact of traffic, parking, and
6 loading on the community. The ANC is in the process
7 of forming a group to negotiate a memorandum of
8 understanding to address these and other issues of
9 concern.

10 The applicant has stated that they have
11 begun to prepare additional information requested in
12 our report. OP will continue to work with the
13 applicant, DDOT, and the community to resolve these
14 issues identified and recommends that the application
15 for consolidated PUD be set down for public hearing.

16 Thank you, Madam Chairman.

17 CHAIRPERSON MITTEN: Thank you, Ms.
18 Brown-Roberts.

19 Let me just address the issue about the
20 density that is being requested and whether that can
21 be done in the context of a PUD or a variance. I
22 think what we would like to do, because there is some
23 -- I think, if I understand the issue correctly, this
24 kind of turns on the definition of the word or the
25 use of the word "bulk" and whether or not bulk

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 actually equates to density or FAR. So what we would
2 like to do is, and I'm sure Mr. Bastida will
3 communicate this to the applicant, we would like to
4 have the applicant brief their position on it, and
5 then just so that we don't have to delay moving
6 forward, to also submit, as you have suggested, a
7 request for a variance and how they meet the burden
8 of proof, and I guess we will have to leave it to
9 them as to what additional amenities and benefits
10 they would provide if -- well, I guess -- would they
11 need to, because if they meet the variance test, then
12 they meet the variance test. It's not really relief
13 per se.

14 SECRETARY BASTIDA: Right, yes, but they
15 will have to advertise it, and also you might want to
16 add that without prejudice they would submit the
17 variance because if the Commission determines that
18 the area variance is not required, then you can move
19 forward.

20 CHAIRPERSON MITTEN: Right. Absolutely.
21 Okay. So then this way we're approaching it with an
22 open mind, but we're asking that both positions be
23 explored so that we can, you know, just keep things
24 moving at the hearing.

25 So is there anyone who has questions for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Ms. Brown-Roberts on the presentation, or comments?

2 I think you have done a good job
3 outlining the issues that are the ones that really
4 need to be fleshed out in greater detail in the
5 hearing and in the prehearing submissions. I think
6 we're going to spend a lot of time on traffic and
7 loading and parking and all of that, and I'm glad
8 that DDOT is guiding the discussion on getting
9 additional information. And the public benefits
10 package does need to have -- I mean, now it's pretty
11 abstract as to what is being offered, but I think all
12 that can be done prior to the hearing and we can
13 develop it further at the hearing.

14 Mr. Hildebrand.

15 COMMISSIONER HILDEBRAND: I was just
16 wondering if there were any examples of similar
17 supermarkets that had less than the minimum required
18 loading facilities that have successfully worked in
19 the city before that you might call to mind.

20 MS. BROWN-ROBERTS: The applicant did
21 provide us with some -- they were a little different
22 in certain areas, but we have been looking at them a
23 little closer to see. I think the one on P Street
24 was the one that they sort of emphasized to us;
25 however, that supermarket is a little bit smaller

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 than this one, so we will be taking a closer look at
2 some other examples.

3 COMMISSIONER HILDEBRAND: Okay. And I
4 see that some of the parking spaces are going to be
5 suggested to be less than the minimum size and also
6 some drive aisles might perhaps get smaller than
7 required. Have there been any studies done to show
8 that those things don't have an adverse impact on the
9 useability of the garage?

10 MS. BROWN-ROBERTS: I don't know, but
11 that is something that will be reviewed by DDOT, and
12 I can certainly pose that question to them.

13 COMMISSIONER HILDEBRAND: Because I was
14 in a parking garage recently that the aisle seemed
15 really small for some reason. It was in this
16 neighborhood, actually, and my car got sideswiped by
17 someone pulling out of a parking spot.

18 MS. BROWN-ROBERTS: Okay.

19 COMMISSIONER HILDEBRAND: So I would like
20 to make sure that we don't encourage a condition that
21 is actually detrimental.

22 CHAIRPERSON MITTEN: I think, just to
23 reinforce the point that Mr. Hildebrand makes, is,
24 you know, we do have some experience now, some really
25 relevant experience particularly with the Whole Foods

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 on P Street where I shop, and I am very familiar with
2 the amount of parking available and all of that, that
3 we can use these, you know, actual models that we
4 have real information about in areas that are
5 arguably more densely populated now than Reed Cooke.

6 So I hope we will be getting some real information
7 about how these other grocery stores operate.

8 MS. BROWN-ROBERTS: Okay.

9 CHAIRPERSON MITTEN: Anyone else?

10 All right. Then we have a recommendation
11 from the Office of Planning to set down Case Number
12 04-30, and I would so move.

13 COMMISSIONER JEFFRIES: I'll second.

14 CHAIRPERSON MITTEN: Thank you.

15 Any further discussion, comments,
16 guidance?

17 All right. Then all those in favor,
18 please say aye.

19 (Chorus of ayes.)

20 CHAIRPERSON MITTEN: Ms. Schellin, it's
21 unanimous.

22 MS. SCHELLIN: Yes. The staff will
23 record the vote 5 to 0 to 0 to approve Case No. 04-30
24 for set down, Commissioner Mitten moving,
25 Commissioner Jeffries seconding, Commissioners

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Hildebrand, Hood, and Parsons in favor.

2 CHAIRPERSON MITTEN: Thank you.

3 PROPOSED ACTION

4 CHAIRPERSON MITTEN: Next up is proposed
5 action in Case Number 04-04, which is the proposal
6 for a senior apartment building by the Carver 2000
7 Tenants Association.

8 Mr. Bastida.

9 SECRETARY BASTIDA: Madam Chairman, the
10 staff has provided you with all the information that
11 came into the request and would request that you take
12 action on this matter. Thank you.

13 CHAIRPERSON MITTEN: Thank you. And we
14 have a couple of additional submissions from the
15 applicant, and among those is a letter from their
16 attorneys responding to some of the issues that we
17 had raised at the hearing about the location of the
18 Dumpster, about the quantity of parking, the roof
19 plan, and we learned more about the roof and the bulk
20 of the building, if I may use that word, from the
21 cross-sections that were supplied, and further
22 discussion of issues relating to height -- they
23 reduced the height by a foot -- and speak to their
24 commitments to first source and LSDBE requirements.
25 Then we also have the plans that were submitted.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 I open it up for discussion.

2 VICE CHAIRPERSON HOOD: Madam Chair, let
3 me just start by -- I guess I will skip right to D
4 because I really want to get a perspective of how
5 actually this was going to fit in composition, I
6 guess, with the surrounding area. We asked for -- I
7 think this is where I learned this new term -- a
8 volumetrics study which was supposedly going to show
9 the views, but I guess, from what I have here, the
10 aerial perspectives actually didn't show me what I
11 was looking for as far as relationship between the
12 surrounding area and how this project would fit
13 within that area.

14 What I see here is just -- I don't know
15 if it's CAD, and I'm not an architect but I think
16 they have a software called CAD or whatever you call
17 it, but be that as it may, this didn't satisfy what I
18 was actually looking for. I don't know how my
19 colleagues feel. It didn't satisfy what I was
20 looking for. I was looking for -- I guess maybe I
21 need to go back to what I know it's called, is
22 viewsheds, or maybe that's the wrong word; I'm going
23 out on the deep end here -- viewsheds or
24 perspectives.

25 If I was living in one of those homes in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the area, I would want to see how in relationship the
2 new project would be to my home, which would be right
3 in front of me. So that is my dissatisfaction with
4 what we have here unless there is something else out
5 there we should be calling it, but that is what I was
6 basically looking for. That will start the
7 discussion.

8 CHAIRPERSON MITTEN: Thank you. I think
9 maybe you can get some sense of it, and maybe it's
10 not completely what you wanted to see, but if you
11 look at the section cut through 48th, for instance,
12 you get a sense of, you know, if you are towards the
13 bottom of the page, you know, what is the chance that
14 you're going to be able to see towards the north. I
15 guess 48th Place is to the south?

16 VICE CHAIRPERSON HOOD: East or west.

17 CHAIRPERSON MITTEN: No. We're not
18 looking -- no. We're either looking north or south.

19 VICE CHAIRPERSON HOOD: East.

20 CHAIRPERSON MITTEN: No. You're not on
21 my page.

22 VICE CHAIRPERSON HOOD: This one?

23 CHAIRPERSON MITTEN: No.

24 COMMISSIONER JEFFRIES: No, 47th is to
25 the west and 49th is to the east and then East

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Capitol is south.

2 VICE CHAIRPERSON HOOD: Okay.

3 CHAIRPERSON MITTEN: What is the
4 orientation of this one? Section cut through 48th
5 Place long ways?

6 COMMISSIONER JEFFRIES: That seems to be
7 looking east.

8 COMMISSIONER HILDEBRAND: That section is
9 looking north.

10 COMMISSIONER JEFFRIES: No, wait. Which
11 one? Which page?

12 CHAIRPERSON MITTEN: The long ways.

13 COMMISSIONER JEFFRIES: Oh, the long one.
14 The long one.

15 CHAIRPERSON MITTEN: That says section
16 cut through 48th Place, which I guess is mislabelled,
17 which is why we're having trouble.

18 COMMISSIONER HILDEBRAND: That's also
19 labelled section cut through 48th Place. That's what
20 I thought you were talking about, where it shows the
21 descent of the hill from 48th Place down to East
22 Capitol.

23 COMMISSIONER PARSONS: I think I've got
24 this. You will notice an invisible plane going
25 through this drawing, which I think is indicating the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 section through 48th Place, which is shown on the
2 next sheet.

3 CHAIRPERSON MITTEN: Oh, okay.

4 COMMISSIONER PARSONS: So this is not the
5 section.

6 CHAIRPERSON MITTEN: Oh, okay.

7 COMMISSIONER PARSONS: It's an isometric
8 view and they have used that as an opportunity to
9 show where they put the section on the next page.

10 CHAIRPERSON MITTEN: Okay. Thanks.

11 COMMISSIONER JEFFRIES: It seems like the
12 section -- that this is looking east here, and the
13 section actually cuts this drawing -- no, it cuts it
14 east-west. It cuts it east-west.

15 CHAIRPERSON MITTEN: So that if you look
16 on the page that's showing where the section is being
17 cut, you can get a sense -- we were getting -- where
18 we were getting some of the opposition was from
19 basically up the hill.

20 COMMISSIONER JEFFRIES: Correct.

21 CHAIRPERSON MITTEN: So you get some of
22 the sense of the relationship, maybe not as much --
23 it's maybe not as well developed as you would like.

24 VICE CHAIRPERSON HOOD: That is a slope,
25 so we're going up the hill if we're going -- is that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 west?

2 COMMISSIONER PARSONS: You can see from
3 the section that the buildings to the left are up the
4 hill. The view is completely blocked, as the
5 citizens told us. What I don't understand is their
6 request was to take a floor off this or a story off
7 this, and it would not give them the view from their
8 front porch that they were talking about.

9 CHAIRPERSON MITTEN: True.

10 COMMISSIONER PARSONS: The only way to
11 resolve that is not to build anything.

12 CHAIRPERSON MITTEN: Right.

13 COMMISSIONER JEFFRIES: So the community
14 just north of the subject site, the hill is going up.
15 If they took another story off, they are still going
16 to be blocked.

17 COMMISSIONER PARSONS: That's right.

18 COMMISSIONER JEFFRIES: Absolutely.

19 COMMISSIONER PARSONS: The smaller
20 structures immediately to the left. It certainly
21 proves the point that the citizens were making, was
22 this building has a larger volume than anything else
23 in the immediate vicinity.

24 COMMISSIONER JEFFRIES: And if I could
25 comment, you know, part of the problem, and I think

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 you have to be sort of careful with these sort of
2 illustrations and how they are being indicated
3 because if there was more articulation here, it might
4 not look as monolithic as it looks, but, you know,
5 they have drawn these lines here and it still looks
6 like a wall of sorts, and so it's a little deceiving
7 in a way.

8 COMMISSIONER PARSONS: I brought this
9 along from the hearing to remind us that it doesn't
10 -- and this is really doing a disservice.

11 COMMISSIONER JEFFRIES: It really is.
12 It's doing a disservice.

13 COMMISSIONER HILDEBRAND: I think what
14 has happened in that block model, the block diagram,
15 too, is that they have carried it to the full 57-,
16 58-foot height, so it's now a square mass at that
17 volume instead of a mass with a sloping roof, so it
18 makes it look even taller than it's going to be in
19 reality.

20 COMMISSIONER JEFFRIES: Yes. This
21 drawing didn't really help me.

22 COMMISSIONER HILDEBRAND: I know one of
23 the things that has been mentioned by the
24 neighborhoods consistently is the objection to the
25 additional story because of the height of the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 building, and one thing that we haven't really talked
2 much about is the roof shape.

3 If you look at their submittal when we
4 first had the set down, which John had the color
5 rendering as part of that same package, if you look
6 back to their drawing, at the very end -- it's EL2 in
7 the bottom right-hand corner -- you will notice there
8 is a cross-section cut, and that entire roof mass is
9 just a screen wall. There is an additional 12 feet
10 of height there that is doing absolutely nothing but
11 giving you this artificial roof shape. It's not
12 interior space. I mean, the rooftop equipment is
13 shown down at the roof line.

14 If this section is true, I would almost
15 say that the neighborhood would be better served if
16 that roof shape was minimized and perhaps the cornice
17 beefed up, and that would cut out an additional 12
18 feet of height along that East Capitol Street facade.

19 COMMISSIONER JEFFRIES: But what about
20 the architecture? I mean, does the roof line in
21 terms of -- I don't know. Is this a mansard? I
22 don't know what kind of roof it is. But is this
23 effectively mimicking sort of, you know, various
24 styles that are already within the area?

25 COMMISSIONER HILDEBRAND: I think we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 could possibly look at that. It certainly does give
2 it a more residential feel. But just the size of the
3 building itself, it's just so large that I'm not sure
4 that that one element alone is enough to bring it
5 down to scale.

6 COMMISSIONER PARSONS: Let me understand.

7 EL2. Let's go to drawing number 5, lower left. You
8 see the roof at the east end of the building?

9 COMMISSIONER HILDEBRAND: Yes.

10 COMMISSIONER PARSONS: I mean, I'm not
11 trying to design this, but do you mean going to that
12 46-foot level, 46.67 --

13 COMMISSIONER HILDEBRAND: Perhaps.

14 COMMISSIONER PARSONS: -- and extending
15 that the length of the building.

16 COMMISSIONER HILDEBRAND: Perhaps.

17 COMMISSIONER PARSONS: I see.

18 COMMISSIONER HILDEBRAND: Certainly all
19 you would need is a reasonable parapet height above
20 the roof plane to screen the rooftop equipment that
21 is being shown. You wouldn't need this 12-foot
22 height. I think they have done it for an
23 architectural concern, to give it a more residential
24 feel, but --

25 CHAIRPERSON MITTEN: Well, the fact is,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 if they modified that in a significant way, that's
2 the equivalent of a story, because isn't it about 12
3 feet for a floor?

4 COMMISSIONER JEFFRIES: Yes. That would
5 make a big difference.

6 VICE CHAIRPERSON HOOD: Let me ask,
7 Chairman, if the houses to the north who have been
8 there, I guess, what, I think we heard testimony 40,
9 50 years, however long they have been there, now all
10 of a sudden -- and I understand the argument -- now
11 all of a sudden you've got this structure, and I
12 think somebody said they couldn't see East Capitol
13 Street. I don't know if my colleagues remember or
14 not. But my concern when I look at the drawings, the
15 way I understood them, all of a sudden -- I always
16 try to put myself in that situation. You know, here
17 all of a sudden -- you've been there 50 years; all of
18 a sudden now somebody is going to block your light,
19 your air, and just put something up in front of your
20 house. I try to put myself in that position. No, I
21 wouldn't want anything to that magnitude. Just all
22 of a sudden -- you've been there 50 years; now all of
23 a sudden the city or whoever decides to come and
24 build something and block your house, and block your
25 view.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Now, I know we have to strike a balance,
2 but I want to make sure that we're fair to those
3 folks who have been there all that time. And I agree
4 with affordable housing, but sometimes -- my question
5 I asked myself when I was reviewing this was, who is
6 actually paying for the affordable housing? I mean,
7 at this point, is it the neighbors? Because -- and I
8 don't mean monetary -- is it the neighbors because
9 now all of a sudden their quality of life is
10 decreasing because all of a sudden, when they look
11 out the window, they see nothing but a brick
12 structure. I think that we need to strike a balance.

13 Hopefully my colleague's suggestion comes
14 to fruition and hopefully we can see some more
15 volumetric views to see that, because I think it's a
16 disservice for people who have been somewhere for 50
17 years and then all of a sudden just block their view
18 carte blanche. I have a problem with that. That's
19 just where I'm coming from.

20 COMMISSIONER JEFFRIES: Well,
21 Commissioner, I clearly understand what you're saying
22 and it is very easy to really put ourselves -- I
23 mean, we are citizens as well here and we know the
24 impact of new development on our neighborhoods.

25 I would, you know, really say that so

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 much is changing now in the District of Columbia and
2 there is so much construction in so many
3 neighborhoods, and, you know, living in Columbia
4 Heights, I'm just amazed at just how often I am
5 awakened with all types of noises. I have come to
6 realize that, you know, to a large extent, we're in a
7 place that is rapidly changing and that a lot of
8 these neighborhoods that have, quite frankly, enjoyed
9 a lot of peacefulness and light and air, you know,
10 the place is becoming a little bit more dense. So I
11 think at the Commission level we really need to
12 figure out what that delicate balance is and how we
13 strike it.

14 I have to tell you, these drawings really
15 don't help the case at all, but I am sort of
16 struggling with the fact that there is a need in the
17 District for senior housing, affordable senior
18 housing, and particularly in this area, in places
19 where so many residents are on fixed incomes. We
20 sort of have to think about sort of, you know, how we
21 address that as well as allowing some of the existing
22 residents to feel like there are some remnants left
23 of their old neighborhood. But I think we have to
24 manage expectations, that things are changing in all
25 these neighborhoods and life is not going to just

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 stay the same.

2 COMMISSIONER PARSONS: Let me follow up
3 on that. This property is currently zoned R-5-A and
4 the people who are complaining live in an R-2 zone,
5 and they may have not known what R-5-A meant, they
6 had no knowledge of what that meant, but the building
7 -- the property could have gone to this height
8 through the PUD whether we took any action to change
9 the zoning or not.

10 It's troubling, it's a common story where
11 people are lulled into a false sense of security that
12 what's across the street is going to be there
13 forever, and if the zoning permits something larger,
14 we can blame the Zoning Commission, but this is East
15 Capitol Street, it is a major street in this city.
16 So I do have sympathy but I can't say we ought to
17 disapprove the project because there is a surprise to
18 the people across the street.

19 COMMISSIONER JEFFRIES: I hear
20 Commissioner Hood in that if there are ways in which
21 we can work to try to reduce -- you know, address
22 this roof line and if we can pick up some inches or
23 feet or something, that shows good faith in trying to
24 address it. I'm just not certain that those
25 residents that are north of this proposed project are

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 going to really benefit much, but to the extent that
2 we have, you know, shown good faith here in terms of
3 -- or the applicant has in terms of trying to address
4 the roof line, I mean, maybe that's something. But
5 I'm just sort of at a loss here as to, you know, the
6 realities of where we are.

7 VICE CHAIRPERSON HOOD: I would agree
8 with everything you said, but I will tell you that
9 having -- and I know there is a need in the city for
10 affordable housing, especially for seniors. I know
11 that firsthand because I had the unfortunate
12 opportunity of voting against a project for seniors.

13 But I can tell you, a year later it came back
14 better, it was a win-win, and I'm speaking from
15 experience now. It came back better for the
16 surrounding area, it was a win-win for the applicant
17 at the time and a win-win for the surrounding
18 neighborhood.

19 All I'm asking is that we strike a
20 balance. What I see here before me -- I understand
21 that these volumetric renderings may not do justice
22 and do not show it how we would like to see it or
23 what is actually taking place, but I think the
24 balance is just not here.

25 I agree, things are changing in the city.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 I know that firsthand, as you do, Commissioner
2 Jeffries. But I will tell you that our job, I think,
3 in this particular is to protect the interests of the
4 residents of the District of Columbia, and that's the
5 oath that we have taken, and I don't know if that
6 interest is being protected in what I have here in
7 front of me.

8 The key, though, I think, is that we need
9 to just find a balance, and how we get to that point,
10 I think Commissioner Hildebrand is starting to strike
11 that balance. So I'm in agreement. Hopefully the
12 applicant will look at some of his suggestions.

13 CHAIRPERSON MITTEN: I would like to move
14 in that direction. I mean, basically, we have the
15 ANC who is generally in support of the project except
16 for the fact that it's four stories instead of three
17 stories. We have the opportunity by reducing the
18 mass of the roof to do the equivalent of taking off a
19 floor and without losing any units, and no one is
20 really -- I didn't hear anyone opposed to the number
21 of units or the density of the project or anything
22 like that.

23 So I would like to send them back and
24 say, you know, study this and if there are legitimate
25 arguments about why that roof, for aesthetic reasons

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 or otherwise, can't be significantly reduced in
2 height, let's hear them, but based on what we have in
3 the record, it doesn't look like it. So I would like
4 to explore that and maybe we can actually strike the
5 balance that everyone is looking for and get
6 everybody behind the project.

7 COMMISSIONER JEFFRIES: I would add that
8 as it relates to just the character of the
9 architecture in the area, I just would like to make
10 certain that whatever changes to the roof line, that,
11 you know, there is something that sort of illustrates
12 how it could be in keeping architecturally within the
13 overall area. I mean, I would hate to see sort of an
14 Italian palazzo in the middle of a lot of gable
15 roofs. I mean, it's just, you know, it is going to
16 look a little odd in addition to just the height and
17 bulk, but just architectural style.

18 CHAIRPERSON MITTEN: Mr. Bastida, I don't
19 know if -- is there anyone here?

20 SECRETARY BASTIDA: Oh, yes. We have a
21 representative of the applicant here.

22 CHAIRPERSON MITTEN: I guess I just
23 wanted to know in terms of setting a schedule, if we
24 wanted to have the additional submission on the
25 redesign of the roof, how quickly we could get that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 in.

2 SECRETARY BASTIDA: Well, if they would
3 like to have it for the January meeting, we will have
4 to receive it by the 6th of January, and I would like
5 that the applicant -- the representative of the
6 applicant is saying yes.

7 CHAIRPERSON MITTEN: Okay.

8 SECRETARY BASTIDA: So that is a
9 Thursday, and we need the submission no later than
10 3:00 on Thursday, January the 6th, 2005. They are
11 agreeing to it.

12 CHAIRPERSON MITTEN: Okay.

13 SECRETARY BASTIDA: Thank you.

14 CHAIRPERSON MITTEN: I'm just wondering,
15 it would be great to have the ANC weigh in, you know,
16 giving them an opportunity to respond, because in
17 part we are responding to what they have -- the
18 reason that they are not supporting the project, so
19 --

20 SECRETARY BASTIDA: You are correct,
21 Madam Chairman. Why don't you go to the next case
22 and then let me discuss it with them and we can come
23 back to this, if you wouldn't mind.

24 CHAIRPERSON MITTEN: Thank you. That
25 sounds like a good idea, and don't let me forget to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 come back.

2 SECRETARY BASTIDA: No, I will not.

3 CHAIRPERSON MITTEN: Okay. Thanks.

4 Okay. Then we will just set that aside for a minute
5 and we will move to final action.

6 FINAL ACTION

7 CHAIRPERSON MITTEN: The first case there
8 is Case Number 03-27. This is 4600 Brandywine
9 Associates. I believe we have a draft order in front
10 of us now. Anyone have any comments, questions,
11 motions?

12 VICE CHAIRPERSON HOOD: Madam Chair, with
13 that, I would move approval of Zoning Commission Case
14 Number 03-27. That's it. Yes, I move approval.

15 COMMISSIONER PARSONS: Second.

16 CHAIRPERSON MITTEN: Thank you both. Is
17 there any discussion? As usual, we would just leave
18 room for any non-substantive editorial changes.

19 VICE CHAIRPERSON HOOD: I will accept
20 that.

21 COMMISSIONER JEFFRIES: I do have one
22 comment.

23 CHAIRPERSON MITTEN: Sure.

24 COMMISSIONER JEFFRIES: If someone on the
25 Commission can remind me, was this the project --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 this was the project we talked about, this notion of
2 exceptional design quality and so forth, and we got
3 into the discussion about, you know, the -- this is
4 that case.

5 CHAIRPERSON MITTEN: Yes.

6 COMMISSIONER JEFFRIES: Okay. I just
7 wanted to know.

8 CHAIRPERSON MITTEN: Okay. Anything
9 else?

10 COMMISSIONER JEFFRIES: No.

11 CHAIRPERSON MITTEN: All those in favor,
12 please say aye.

13 (Chorus of ayes.)

14 CHAIRPERSON MITTEN: Ms. Schellin, it's
15 unanimous.

16 MS. SCHELLIN: Staff would record the
17 vote 5 to 0 to 0 to approve for final action Case
18 Number 03-27, Commissioner Hood moving, Commissioner
19 Parsons seconding, Commissioners Hildebrand, Mitten,
20 and Jeffries in favor.

21 CHAIRPERSON MITTEN: Thank you.

22 For the next case, I'm going to turn it
23 over to Mr. Hood, and if you all don't feel like I
24 will be unduly influencing you by staying on the
25 dias, I would just like to sit through this.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Mr. Hood.

2 VICE CHAIRPERSON HOOD: Thank you, Madam
3 Chair.

4 Next on the agenda for final action is
5 Zoning Commission Case 04-08/02-45, St. Elizabeths
6 Hospital 2nd Stage PUD.

7 Mr. Bastida.

8 SECRETARY BASTIDA: Mr. Chairman, the
9 staff has a preliminary matter. At the time of the
10 hearing, it seemed like it was a very congenial
11 hearing between the ANC and the applicant. When we
12 discussed the MOU with the applicant representative,
13 the applicant representative was very reluctant to
14 include it on the order.

15 Some of the parts of the MOU are not
16 really under the purview of the Commission, but
17 others could be, and still the applicant did not want
18 to pull those out and add them to the order. So that
19 is the situation presently in front of you, and the
20 staff requests that you act. We have provided you
21 with all the information and are requesting some type
22 of action from the Commission. Thank you.

23 VICE CHAIRPERSON HOOD: Mr. Bastida,
24 thank you. I will tell you, from your report, I'm
25 very disappointed. As you mentioned, it was very

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 congenial and the discussion during the hearing I
2 thought was that it was not a problem. I understand
3 that there are some things in the MOU that are not
4 within our jurisdiction. I was given the impression
5 that it wouldn't have been a problem, not necessarily
6 the things that can go within the order, I was under
7 the impression that that was the least thing that I
8 would hear today. So I'm having a problem with what
9 exists at this point with nothing being included and
10 the testimony -- I think the record will reflect that
11 Mrs. Knesley mentioned that things were fine, no
12 problem, everybody was on the same page, you know,
13 and all this. It was a lovefest. And now I'm
14 hearing that this is not going to be accepted.

15 Let me ask first, though, has the ANC
16 been contacted?

17 SECRETARY BASTIDA: The ANC has not been
18 contacted by this office, so I don't know if they are
19 totally aware that, in fact -- I mean, in fact --
20 well, this office contacted the ANC and the ANC had
21 anticipated that, in fact, and requested that the
22 Commission include all those aspects that were in the
23 MOU. We advised the ANC that some of those
24 agreements could not be included because they were
25 not under the purview of the Commission, but others

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 could be. But that is part of the amenity package,
2 and it puts the Commission in a difficult situation
3 since the Commission cannot negotiate zoning based on
4 amenities.

5 VICE CHAIRPERSON HOOD: Right. I think,
6 though, that I want to make sure that -- and I want
7 to hear from my colleagues -- I would be in favor of
8 not moving forward with this until we make sure that
9 the ANC understands and has full knowledge of exactly
10 what is actually taking place. But let me stop
11 talking. Let me open it up. Anybody else want to
12 comment on it, or do you agree with what I'm saying,
13 disagree with what I'm saying?

14 COMMISSIONER PARSONS: You are suggesting
15 a postponement. The staff then would contact the ANC
16 to explain to them we can't do this and would they
17 still support the project.

18 VICE CHAIRPERSON HOOD: Right. That's
19 kind of the direction I would like to go in. I will
20 tell you, as was stated, I know there are some things
21 that can actually, I believe, go in the order, and I
22 would have to go to Mr. Ritting to clarify that, but
23 I believe there are some things that can go in the
24 order.

25 But I'm going back to the hearing. All

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 areas in this city are not up on zoning and what goes
2 on down here and, to me, to approve this would be
3 undercutting as opposed to what was said at the
4 hearing. I want to be fair, and they may not be up
5 to speed on zoning, as a lot of us aren't, a lot of
6 people aren't. Some are, some aren't. But to go
7 ahead and approve this with them having the
8 understanding that this MOU is included -- and we all
9 heard it. This lovefest was going on. The only
10 issue was the MOU. So I just assumed or knew that
11 this would not be an issue, but here now the
12 applicant has a problem. I'm disappointed. I'm
13 disappointed in the action. I really am.

14 So if we have to postpone it -- if not,
15 if you are ready to vote, I will tell you that I will
16 be voting against it just on principle.

17 COMMISSIONER HILDEBRAND: Well, I do
18 think it's reasonable to gauge the response of the
19 ANC fully knowing that the MOU is not going to be
20 part of the order if they would change -- if that
21 would change the vote in any way, their decision to
22 support it. So I don't think it would be
23 unreasonable just to give them the time to respond to
24 that question.

25 VICE CHAIRPERSON HOOD: Anything else?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER JEFFRIES: I'm just looking
2 at the level of relief, what they are actually asking
3 for, and sort of gauging that with this package. But
4 I do agree with you, Commissioner Hood, that, you
5 know, in terms of deference to the ANC, that we
6 should postpone this and make certain that we are all
7 on the same page.

8 VICE CHAIRPERSON HOOD: So we have a
9 general consensus.

10 COMMISSIONER JEFFRIES: Yes.

11 VICE CHAIRPERSON HOOD: Good.

12 Mr. Bastida, could we -- what does it
13 take? About 30 days?

14 SECRETARY BASTIDA: Yes. I think that we
15 could have these -- let me see. I think that
16 probably we could communicate with ANC and hopefully
17 they can provide something to the Commission by early
18 January to say what their feelings are on the matter,
19 and then we could have it on the January agenda, the
20 13th.

21 I would make very clear to the ANC that
22 certain aspects of the MOU cannot be included on the
23 order because they are not under the purview of the
24 Commission, and with that clarification, perhaps they
25 might still be reluctant to endorse the project

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 without the conditions that, in fact, could be
2 incorporated in the order.

3 VICE CHAIRPERSON HOOD: Right. And that
4 can happen between the applicant and I guess the
5 neighborhood. They can continue their lovefest, but
6 the key is it was represented to us that it was down
7 here, so I would like to make sure that it's clear.

8 SECRETARY BASTIDA: Okay.

9 VICE CHAIRPERSON HOOD: And the only
10 other thing I would caution, Mr. Bastida, is we want
11 to make sure that -- I know during the holiday season
12 a lot of volunteer community groups don't meet, and
13 for us to do it on the January 13th -- we may have to
14 move that to a special meeting.

15 SECRETARY BASTIDA: Right, Mr. Chairman.
16 Yes. That's why I said, you know, we could try for
17 that. I would have to contact the ANC and then I
18 will contact the applicant and let everybody know
19 what a feasible date is. I don't want to pin it down
20 right now because I haven't consulted the ANC on what
21 the possibilities are to achieve a meeting because of
22 the holidays.

23 VICE CHAIRPERSON HOOD: Okay. Thank you,
24 Mr. Bastida.

25 Mr. Parsons.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER PARSONS: While we are doing
2 that, I also noticed in here that in the decision,
3 there is no provision for flexibility, architectural
4 flexibility that we normally include, and I wonder if
5 the staff could be working with the applicant to see
6 if -- I mean, this is a complex case and we would
7 hate to have them back here changing windows. So
8 maybe that normal flexibility could be included.

9 SECRETARY BASTIDA: Okay.

10 VICE CHAIRPERSON HOOD: Did you hear Mr.
11 Parsons?

12 SECRETARY BASTIDA: Yes. Mr. Chairman,
13 those are not there, but we intend to add them to the
14 order and advise the applicant that, in fact, those
15 are standard paragraphs that are part of any PUD
16 order, are added to the draft order.

17 VICE CHAIRPERSON HOOD: Okay. All right.
18 Thank you.

19 With that, anybody else? Okay. With
20 that, I will turn it back over to the Chairperson.

21 CHAIRPERSON MITTEN: Thank you, Mr. Hood.

22 Okay. Last -- well, I guess we can go
23 back to Carver Tenants.

24 SECRETARY BASTIDA: The applicant will
25 provide the drawings, will file their drawings with

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the Commission and the ANC on January 6, 2005, the
2 ANC will have until February the 3rd at 3:00 to
3 respond to the drawings as submitted by the
4 applicant, and then we can have these on the February
5 14th meeting.

6 CHAIRPERSON MITTEN: Okay.

7 SECRETARY BASTIDA: That way, it is out
8 of the holidays and so on.

9 CHAIRPERSON MITTEN: That's great.

10 SECRETARY BASTIDA: Okay.

11 CHAIRPERSON MITTEN: That's great. Thank
12 you.

13 SECRETARY BASTIDA: Thank you, Madam
14 Chairman.

15 CHAIRPERSON MITTEN: All right. Then we
16 are ready for the last item under final action, which
17 is Case Number 91-2, and I am hoping that you will
18 just give us a little briefing on this, Mr. Bastida.

19 SECRETARY BASTIDA: Yes. This is, as you
20 can tell by the Zoning Commission case number, it's a
21 very old case that has been hanging around for a long
22 time, and I submitted a report to you outlining the
23 dates that it was filed, when it was referred to OP,
24 a letter that was sent to OP requesting the status of
25 the case and to the ANC.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 I have talked to the ANC on several
2 occasions and I included an e-mail that the Chair
3 provided to us expressing no opposition to the
4 withdrawal of the case provided that it was not done
5 with prejudice, and staff recommends that the
6 Commission approves the dismissal of the case.

7 CHAIRPERSON MITTEN: All right. Thank
8 you.

9 SECRETARY BASTIDA: And I can go in more
10 depth if you would like me to.

11 CHAIRPERSON MITTEN: Well, I think we
12 have all had the opportunity to read the package, so
13 I just appreciate the overview.

14 We have a recommendation to dismiss Case
15 Number 91-2 without prejudice, and I would so move.

16 VICE CHAIRPERSON HOOD: Second.

17 CHAIRPERSON MITTEN: Any discussion?

18 All those in favor, please say aye.

19 (Chorus of ayes.)

20 CHAIRPERSON MITTEN: Ms. Schellin, it's
21 unanimous.

22 MS. SCHELLIN: Staff would record the
23 vote 5 to 0 to 0 to dismiss Case Number 91-2,
24 Commissioner Mitten moving, Commissioner Hood
25 seconding, Commissioners Hildebrand, Jeffries, and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Parsons in favor.

2 CHAIRPERSON MITTEN: Thank you.

3 And unless there is anything else -- Mr.
4 Bastida, anything else?

5 SECRETARY BASTIDA: No, Madam Chairman.
6 It has been a pleasure working with the
7 Commissioners, and I wish all a happy Christmas and
8 New Year's. Thank you.

9 CHAIRPERSON MITTEN: Thank you.
10 We're adjourned.

11 (Whereupon, at 7:42 p.m., the Zoning
12 Commission meeting adjourned.)

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com