

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

PUBLIC HEARING

+ + + + +

-----:

IN THE MATTER OF: :

:

RIGGS ROAD CENTER, LLC AND :

AVISSAR RIGGS ROAD, LLC - : Case No. 18-11

MAP AMENDMENT @ SQUARE 3710, :

LOTS 199, 848, AND 849 :

:

-----:

Thursday,

February 7, 2019

Hearing Room 220 South

441 4th Street, N.W.

Washington, D.C.

The Public Hearing of Case No. 18-11

by the District of Columbia Zoning Commission

convened at 6:30 p.m. in the Jerrily R. Kress

Memorial Hearing Room at 441 4th Street, N.W.,

Washington, D.C., 20001, Anthony J. Hood,

Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson

ROBERT MILLER, Vice Chairperson

PETER G. MAY, Commissioner (NPS)

PETER SHAPIRO, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director,
Development Review & Historic Preservation
JONATHAN KIRSCHENBAUM

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

HILLARY LOVICK, ESQ.

The transcript constitutes the
minutes from the Public Hearing held on February
7, 2019.

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

2 6:32 p.m.

3 CHAIRMAN HOOD: Good evening, ladies
4 and gentlemen. This is a public hearing of the
5 Zoning Commission for the District of Columbia.
6 Today's date is February 7th, 2019. We are
7 located at the Jerrily R. Kress Memorial Hearing
8 Room.

9 My name is Anthony Hood. Joining me
10 are Vice Chair Miller, Commissioner Shapiro, and
11 Commissioner May. We are also joined by the
12 Office of Zoning Staff Ms. Sharon Schellin as
13 well as the Office of Attorney General Ms.
14 Lovick, Office of Planning Staff Ms. Steingasser
15 and Mr. Kirschenbaum.

16 Did I get that right? Kirschenbaum.
17 Kir. Okay, well, I'm in the neighborhood. Mr.
18 Kirschenbaum.

19 Okay. This proceeding is being
20 recorded by a court reporter. It is also webcast
21 live. Accordingly, I must ask you to refrain
22 from any disruptive noise or actions in the
23 hearing room, including display of any signs or
24 objects.

25 Notice of today's hearing was

1 published in the D.C. Register, and copies of
2 that announcement are available to my left on the
3 wall near the door.

4 The hearing will be conducted in
5 accordance with provisions of 11 DCMR Chapter 5,
6 as follows: preliminary matters, presentation by
7 the Petitioner, reports of other government
8 agencies as well as the Office of Planning,
9 reports of the ANC, organizations and persons in
10 support, organizations and persons in opposition,
11 organizations and persons who are undeclared.

12 The following time constraints will be
13 maintained in this meeting. Petitioner has 60
14 minutes. We certainly don't need 60 minutes, I
15 don't believe, in this case. Organizations, five
16 minutes; individuals, three minutes.

17 All persons wishing to testify before
18 the commission in this evening's hearing are
19 asked to register at the witness kiosk to my left
20 and fill out two witness cards. When you are
21 finished speaking, please turn off your
22 microphone so your microphone is no longer
23 picking up sound and background noise.

24 The staff will be available throughout
25 the hearing to discuss procedural questions.

NEAL R. GROSS

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

1 Please turn off all electronic devices at this
2 time so as not to disrupt these proceedings.

3 At this time the Commission will
4 consider any preliminary matters. Does the staff
5 have any preliminary matters?

6 MS. SCHELLIN: The Petitioner is
7 proffering one expert witness, Amy Thompson, in
8 land use planning. Other than that, no other
9 preliminary matters.

10 CHAIRMAN HOOD: Did we qualify Ms.
11 Thompson before?

12 MS. SCHELLIN: We did not find her on
13 our list.

14 CHAIRMAN HOOD: Okay. Any objections?

15 COMMISSIONER MAY: It hardly seems
16 like it's needed, but I don't have any objections
17 having read her resume. So that's fine. I don't
18 even think we'll have a question, so.

19 CHAIRMAN HOOD: Okay. I thought we
20 did Ms. Thompson previously. I can't remember
21 what I did last night but, okay, but I just
22 remember seeing the resume. Maybe it was BZA. I
23 know I've seen the resume.

24 Okay. All right, so no problems.

25 All right. I think I know this

1 gentleman. We know this gentleman here, but you
2 can introduce yourself, and you may begin.

3 MR. FERRIS: Lawrence Ferris with the
4 law firm of Goulston and Storrs, here on behalf
5 of the Applicant.

6 CHAIRMAN HOOD: Okay, Mr. Ferris, the
7 floor is yours.

8 MR. FERRIS: Yes. I don't know if you
9 would like to proceed with a full presentation or
10 if you have any questions.

11 CHAIRMAN HOOD: What did the gentlemen
12 behind you tell you to do?

13 MR. FERRIS: We're happy to rest on
14 the record unless the --

15 CHAIRMAN HOOD: Okay.

16 MR. FERRIS: -- Commission has any
17 additional questions.

18 CHAIRMAN HOOD: That's fine. I think
19 this record is complete. So I didn't want Mr.
20 Ferris to have it too easy, but that's fine.

21 Okay. I think the record is actually
22 complete.

23 Commissioners, any questions or
24 comments? Okay.

25 VICE CHAIR MILLER: I do have one.

NEAL R. GROSS

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

1 CHAIRMAN HOOD: You have a question?

2 VICE CHAIR MILLER: I do.

3 CHAIRMAN HOOD: Okay. Vice Chair
4 Miller.

5 VICE CHAIR MILLER: Thank you, Mr.
6 Chairman.

7 I know that on a zoning map amendment
8 it's a matter of consistency with the comp plan,
9 which this clearly is consistent, but -- and we
10 don't get into what the intended use is. But I'd
11 like to know if there is an intended use at this
12 stage?

13 MR. FERRIS: No. Our client has not
14 gotten to that level of development yet with the
15 plans.

16 VICE CHAIR MILLER: And did you choose
17 the map amendment approach because of the
18 litigation records with PODs that this Commission
19 has approved? Is that why you went the map
20 amendment, the map amendment approach versus POD?
21 Or you would have gone that way anyway?

22 MR. FERRIS: You know, I can't speak
23 to the intent going back that far. It's --

24 VICE CHAIR MILLER: When did you file?

25 MR. FERRIS: I'm sorry?

1 VICE CHAIR MILLER: When did you file
2 this application, approximately? After all the
3 POD litigation started I'm sure.

4 MR. FERRIS: I believe it was in May
5 of last year.

6 VICE CHAIR MILLER: Okay.

7 MR. FERRIS: Yes, sir.

8 VICE CHAIR MILLER: All right, thanks.

9 MR. FERRIS: I appreciate the question.

10 CHAIRMAN HOOD: Okay. Any other
11 questions?

12 Is there anyone here representing --
13 oh, that's right, this is a map amendment. Okay.

14 All right, let's go to the Office of
15 Planning.

16 MR. KIRSCHENBAUM: Good evening,
17 Chairman Hood and members of the Zoning
18 Commission. Jonathan Kirschenbaum for the Office
19 of Planning.

20 We recommend that the Zoning
21 Commission approve this application. And we
22 stand on the record. Thank you.

23 Please let me know if you have any
24 questions.

25 CHAIRMAN HOOD: Thank you, Mr.

NEAL R. GROSS

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

1 Kirschenbaum. We appreciate -- did I get it
2 right this time? I'm sure I'm doing better than
3 I am with Ms. Elliott. How many years, how many
4 years -- how many years has it been since I
5 messed her name up. I kept getting it backwards.

6 So anyway, all right, so any questions
7 for Mr. Kirschenbaum?

8 Okay, not seeing any.

9 Is there anyone here representing the
10 ANC?

11 Okay. They did -- we do have a
12 report. Ms. Schellin, for the ANC report I know
13 that they had a representative, and they have a
14 letter of approval. But the letter I have we --
15 I think we need to supplement the record. I
16 don't think that would hold anything this
17 evening. But I notice is there a requirement
18 that we need a signature?

19 MS. SCHELLIN: Yes, there is.

20 CHAIRMAN HOOD: Okay. So since we
21 don't have a signature I think it's pretty -- we
22 can just -- if they would give us a signature
23 because I didn't see one on the copy that I have.
24 And they have support but they do raise the
25 concern about what's going to actually go there.

NEAL R. GROSS

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

1 But they still have a vote of eight yes, zero as
2 far as no. And that's in our exhibit and in the
3 case file.

4 We just need to ask them to -- Exhibit
5 Number 20 -- just ask them for a letter with a
6 signature.

7 Okay. Do we have any organizations
8 and persons who are here in support? Any
9 organizations and persons who are in support?

10 We do have a conditional letter pretty
11 much qualifying, qualified support from the
12 Lamond-Riggs Citizens Association.

13 Mr. Ferris, you're aware of that as
14 well; right?

15 MR. FERRIS: Yes, sir.

16 CHAIRMAN HOOD: Okay. All right, so
17 do we have any organizations and persons who are
18 here in opposition?

19 Do we have any organizations and
20 persons who are here undeclared?

21 You can come forward, sir.

22 Okay, yeah, the letter, I'm being
23 reminded that the Lamond-Riggs Citizens
24 Association is from Uchenna Evans. Hopefully I
25 have that name correct.

NEAL R. GROSS

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

1 Okay, sir, you can turn the mic on,
2 introduce yourself, and you may begin.

3 MR. SHELTON: My name is Jerome
4 Shelton. I am the Chairman of the Board for the
5 DC Teachers' Federal Credit Union. And when we
6 learned about this hearing we were interested in
7 knowing who was involved in the decision making.
8 We were -- we were not involved in the ANC
9 discussion. We were not involved in the
10 community discussion.

11 But we, too, have a parking problem,
12 and so I thought I would come here, see what was
13 going on and offer our considerations as we are
14 the next door neighbor. And we have had a unique
15 experience with companies changing the area
16 around us.

17 Recently the storage company built a
18 facility next door on the northern side and
19 created a flooding crisis on our side. We have
20 lived with the empty buildings on the southern
21 side. And now they're changing the parking for I
22 guess some future use.

23 We were not involved in the future use
24 by the storage company, but we are interested in
25 being involved in whatever is going to happen

NEAL R. GROSS

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

1 next door to us in the future.

2 We have not been reimbursed for the
3 damages to our building, but we are in
4 negotiations about that now. But this changing
5 of the community is not something we are opposed
6 to, but it is important that we are involved and
7 included. Because if the desire is to create
8 something new and more dynamic, we expect to be a
9 part of our community.

10 We have been not involved before, but
11 we are involved now because it's necessary. And
12 I am here to represent that position.

13 CHAIRMAN HOOD: Okay.

14 MR. SHELTON: That's why I have no
15 opinion; I have no information. I don't know who
16 started it. I don't know who's involved in it.
17 I now know that the ANC and the community is
18 saying yes, but I'm concerned about what's going
19 to happen next.

20 And I'm not opposed to development.
21 I just don't want to be the house that is
22 excluded between the giants as they go up.

23 CHAIRMAN HOOD: Okay. Thank you, Mr.
24 Shelton.

25 Mr. Shelton, you're with the DC Credit

NEAL R. GROSS

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

1 -- Teachers' Credit Union?

2 MR. SHELTON: Yes, sir.

3 CHAIRMAN HOOD: And Dave McWilliams,
4 I'm very familiar with that organization.

5 MR. SHELTON: Yes. We've had good
6 experiences with Zoning through the years, yes.

7 CHAIRMAN HOOD: Well, we want to make
8 sure you continue to have a good experience.

9 MR. SHELTON: Yes, sir.

10 CHAIRMAN HOOD: Because I remember
11 when you moved out from over there across from
12 Way of the Cross.

13 MR. SHELTON: Yes, sir.

14 CHAIRMAN HOOD: You've been around a
15 while, and Dave McWilliams -- and Jerome
16 Shelton's a name actually -- I know the name.
17 I've never, I don't think, met you, but I've
18 heard the name for years.

19 So here's why, Mr. Ferris, with that
20 because I think it's very important because they
21 also, too, moved from over on that side over to
22 where Way of the Cross was off of 6th -- was it
23 6th Street?

24 MR. SHELTON: 9th and D.

25 CHAIRMAN HOOD: 9th and D. They moved

NEAL R. GROSS

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

1 from 9th and D over to where they are now. I
2 remember when you all did that.

3 So I would ask, Mr. Ferris, that you
4 all apprise them and keep them in tune with
5 what's going on. It's a map amendment, so I
6 would ask, Mr. Epting, that you all work with Mr.
7 Shelton. Because one thing, I have my ear to the
8 street so I will hear about it. But I would ask
9 that you all would continue to work with them as
10 well.

11 And I'm sure that I can take Mr.
12 Ferris's and Mr. Epting's word that that will
13 happen.

14 MR. FERRIS: We're happy to work with
15 our neighbors, absolutely.

16 CHAIRMAN HOOD: Okay, great.

17 MR. SHELTON: And one more point. I
18 don't know exactly where to start, but I will be
19 talking with our attorneys, the Cube place has
20 changed the parking on our side of the street.
21 There's an area that where there used to be a
22 driveway which has been removed by the building
23 that's been built which is now called no parking.
24 And I think that that area needs to have hourly
25 parking during business hours.

NEAL R. GROSS

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

1 CHAIRMAN HOOD: I would encourage you
2 all -- some things, I don't like to use the word
3 purview down here, but some things are not within
4 our realm of what we do. That building
5 apparently what you're talking about I think you
6 can work with the ANC and also work with the
7 owners of that facility. I think. I don't know
8 who it is. But I think I am aware -- I know, I
9 know the area very well.

10 MR. SHELTON: Yes.

11 CHAIRMAN HOOD: But I would encourage
12 you to work with the ANCs and try to find a
13 mitigation method.

14 MR. SHELTON: That's why I'm here.

15 CHAIRMAN HOOD: Okay.

16 MR. SHELTON: To find the process we
17 need to follow and then begin to follow it.

18 CHAIRMAN HOOD: Right. I would start
19 with ANC 4B. I think that's in 4B. Scot --

20 MR. SHELTON: Yes.

21 CHAIRMAN HOOD: -- Knickerbocker is
22 the chairperson.

23 MR. FERRIS: I know. I know of it, I
24 just didn't go to the meetings in preparation for
25 this because the letter came to me as a cold

NEAL R. GROSS

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

1 communication, meaning that it was a come to
2 arms. And with nobody to contact other than this
3 office.

4 CHAIRMAN HOOD: Okay.

5 MR. FERRIS: We're glad you came in.

6 MR. SHELTON: Yes.

7 CHAIRMAN HOOD: Yes. So again, Mr.
8 Shelton, I know the work that you've done. I've
9 heard your name many times from Eddie Harrison,
10 my late friend.

11 MR. SHELTON: Yes.

12 CHAIRMAN HOOD: So I would encourage
13 you to start at those places. And they're
14 willing to -- they will be --

15 MR. SHELTON: And this is the first
16 chance we've had to talk.

17 CHAIRMAN HOOD: Okay.

18 MR. SHELTON: That's why I've been
19 hesitant, because I didn't know what was going
20 on.

21 CHAIRMAN HOOD: Okay.

22 MR. SHELTON: Not here to disrupt,
23 just here to get information to work something
24 out.

25 CHAIRMAN HOOD: Thank you. We

NEAL R. GROSS

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

1 appreciate you coming down.

2 Any questions for Mr. Shelton?

3 Okay. All right, thank you very much.

4 Okay. Again, we're looking forward to
5 that, Mr. Epting and Mr. Ferris. Okay.

6 All right, anything else, colleagues?
7 I think this is definitely flavored right. It
8 has a lot of support, flavored with the follow-up
9 which we would continue to strongly encourage.

10 Any remarks on this? If not, I'll
11 take a motion.

12 It's two votes. Ms. Schellin, this is
13 two votes; right?

14 MS. SCHELLIN: It is.

15 CHAIRMAN HOOD: Yes, it's two votes.

16 MS. SCHELLIN: And I made a mistake.
17 This is a contested case. This one is contested.

18 CHAIRMAN HOOD: Oh. Well if it's --

19 MS. SCHELLIN: It doesn't change it,
20 it's still two votes.

21 CHAIRMAN HOOD: Well, in that case I
22 want to know the update, Mr. Shelton. I want to
23 know what the update is before I -- Mr. Shelton,
24 I want you to hear this. I want to know the
25 update of working with the Credit Union before I

NEAL R. GROSS

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

1 take final action. Okay?

2 MR. FERRIS: Certainly.

3 CHAIRMAN HOOD: Okay. So it was going
4 to be done whether it was a map amendment.

5 Okay, so still two votes; right?

6 MS. SCHELLIN: Uh-huh.

7 CHAIRMAN HOOD: So before the second
8 -- before final action I'd like to give me a
9 status.

10 MR. FERRIS: As a written submission?

11 CHAIRMAN HOOD: Yeah, written
12 submission.

13 MR. FERRIS: Certainly.

14 CHAIRMAN HOOD: Okay. All right, so
15 there needs to be some work going on. Okay.

16 You all have each other's numbers?
17 Hold on. Before you leave, you all have each
18 other's numbers?

19 Okay, good. Okay, we're good.

20 COMMISSIONER SHAPIRO: Mr. Chairman,
21 I move that we take proposed actions under
22 Commission Case Number 18-11, 18-11 zoning map
23 amendment 5642 to 5650 3rd Street, N.E., Lots
24 848, 849, and 199 in Square 3710.

25 I look for a second.

1 VICE CHAIR MILLER: Second.

2 CHAIRMAN HOOD: Okay, it's been moved
3 and properly seconded.

4 Any further discussion?

5 All in favor?

6 (Chorus of aye.)

7 CHAIRMAN HOOD: Ms. Schellin, do we
8 have a proxy?

9 MS. SCHELLIN: No, sir, we do not.

10 CHAIRMAN HOOD: Okay, we can just
11 record the vote.

12 MS. SCHELLIN: The staff will record
13 the vote 4 to 0 to 1 to approve proposed action
14 in Zoning Commission Case Number 18-11.
15 Commissioner Shapiro moving, Commissioner Miller
16 seconding, Commissioners Hood, May, and -- I'm
17 sorry, Hood and May in support. Commissioner
18 Turnbull not present, not voting.

19 And if we could have the Applicant
20 provide a draft order. Is a summary order okay
21 in this case? Yes?

22 CHAIRMAN HOOD: I believe, yeah.

23 MS. SCHELLIN: Summary order since
24 there's no opposition. So if we could get a
25 summary order in two weeks?

NEAL R. GROSS

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

1 MR. FERRIS: Yes, we can do that.

2 MS. SCHELLIN: Okay.

3 CHAIRMAN HOOD: Will that allow time
4 to meet with the DC Teachers'?

5 MR. FERRIS: If it doesn't, I'll
6 coordinate with the secretary to extend the time.
7 Does that work?

8 CHAIRMAN HOOD: Okay, that works.

9 MS. SCHELLIN: Okay.

10 CHAIRMAN HOOD: You've been around a
11 while, Mr. Ferris. Kind of know how we work
12 around here.

13 MR. FERRIS: That was relative.

14 MS. SCHELLIN: Right. So I'll stay
15 this evening and refer this to NCPC so that the
16 30-day comment period -- we could put this on for
17 a final on March 11.

18 CHAIRMAN HOOD: Okay. Anything else,
19 Ms. Schellin?

20 MS. SCHELLIN: No, sir.

21 CHAIRMAN HOOD: All right. I want to
22 thank everyone for their participation tonight.
23 This hearing is adjourned.

24 (Whereupon, the above-entitled matter
25 went off the record at 6:48 p.m.)

NEAL R. GROSS

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

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCZC

Date: 02-07-19

Place: Washington, DC

was duly recorded and accurately transcribed under
my direction; further, that said transcript is a
true and accurate record of the proceedings.



Court Reporter

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701