

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

REGULAR MEETING

1157TH MEETING SESSION (1st of 2004)

+ + + + +

MONDAY

JANUARY 12, 2004

+ + + + +

The Regular Meeting of the District of Columbia Zoning Commission convened at 7:06 p.m., in the Office of Zoning Hearing Room, at 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 7:06 p.m., **Carol J. Mitten**, Chairperson, presiding.

COMMISSIONERS PRESENT:

CAROL J. MITTEN	Chairperson
ANTHONY J. HOOD	Vice Chairperson
PETER G. MAY	Commissioner
	(Architect of the Capital)
JOHN G. PARSONS	Commissioner,
	(National Park Service)

OFFICE OF ZONING STAFF PRESENT:

ALBERTO P. BASTIDA	Secretary, ZC
SHARON SCHELLIN	Zoning Specialist

OFFICE OF PLANNING STAFF PRESENT:

ELLEN MCCARTHY	Deputy Director
MAXINE BROWN-ROBERTS	Office of Planning
JENNIFER STEINGASSER,	Office of Planning

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

D.C. OFFICE OF CORPORATION COUNSEL:

SHERRY GLAZER, ESQ.  
LORI MONROE, ESQ.  
MARY NAGELHOUT, ESQ.

**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)

<u>AGENDA ITEM</u>	<u>PAGE</u>
PRELIMINARY MATTERS .....	

FINAL ACTION

CASE NO. 03-05 .....	
CASE NO. 03-06 .....	
CASE NO. 03-12 .....	
CASE NO. 03-13 .....	
CASE NO. 03-04 .....	
CASE NO. 02-28 .....	

PROPOSED ACTION

CASE NO. 03-21 .....	
OFFICE OF PLANNING STATUS REPORT .....	

**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

(7:06 p.m.)

CHAIRPERSON MITTEN: Good evening ladies and gentlemen. I apologize for getting start late. This is the January 12th, 2004 public meeting of the Zoning Commission of the District of Columbia.

My name is Carol Mitten, and joining me this evening are Vice Chairman Anthony Hood, and Commissioners Peter May and John Parsons. Copies of today's meeting agenda are available to you, and they are located in the wall bin near the door.

I would just remind everyone that we do not accept public testimony at our meetings unless the Commissioner specifically requests someone to come forward. Please be advised that this proceeding is being recorded by a court reporter, and also is for the first time being webcast live. This is our debut on the web.

Accordingly, we must ask you to reframe from any disruptive noises or actions in the hearing room so that we don't disrupt the webcast or the court reporter.

Please turn off all beepers and cell phones at this time so as not to disrupt the proceedings. Mr. Bastida, do we have any preliminary

**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 matters?

2 MR. BASTIDA: Madam Chairman, the staff  
3 has no preliminary matters. Thank you.

4 CHAIRPERSON MITTEN: Thank you. We will  
5 postpone the Office of Planning status report until  
6 the end since we are late getting started, and we will  
7 move immediately to proposed action, and the first  
8 case under proposed action is Case Number 03-21, which  
9 is St. Coletta's, and I am going to recuse myself,  
10 although this is in the portfolio of the Office of  
11 Property Management.

12 And I sat in on the hearing because I  
13 thought that because the lease had been signed that  
14 there would not be an issue of conflict, but out of an  
15 abundance of caution, I will recuse myself from the  
16 deliberations and decision making, and turn the  
17 hearing over to Vice Chairman Hood.

18 VICE CHAIRPERSON HOOD: Okay. Thank you,  
19 Ma'am Chair. We will now continue with proposed  
20 action for Zoning Commission Case Number 03-21, St.  
21 Coletta's. Mr. Bastida.

22 MR. BASTIDA: Mr. Chairman -- I'm sorry.

23 VICE CHAIRPERSON HOOD: That's all right.  
24 I will give you time to get it straight.

25 MR. BASTIDA: Mr. Vice Chairman, the staff

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 has provided you with a complete copy of the file and  
2 request an action by the Commission. Thank you.

3 VICE CHAIRPERSON HOOD: Okay. Okay,  
4 Gentlemen, this is a PUD related map amendment to SP-  
5 1, to the SP-1 district. I have a few issues, and I  
6 guess the first issue is we received a lot of  
7 prehearing -- post-hearing, excuse me, submissions.

8 There were a lot of or a number of things  
9 that were asked for, and a number of details which  
10 needed clarifying. And one of them, I believe -- and  
11 if anyone else -- I have a list, and I would like to  
12 run down that list if you have any other issues that  
13 we want to add on to.

14 But I think what we can do is take them one  
15 at a time and address them in that order. And I guess  
16 in the next exhibits, 2-A and 2-D, I don't think they  
17 show whether the proposed driveway opposite Burke  
18 Street, and its existing driveway that forms the  
19 southern property line, is within the property or  
20 outside the property.

21 And I guess I am not going to ask the  
22 applicant to come to the table, but I am going to ask  
23 the Office of Planning if they have looking at the  
24 post-hearing submission, and know whether or not that  
25 driveway opposite Burke Street is within the property

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 line.

2 DEPUTY DIRECTOR MCCARTHY: The driveway  
3 opposite Burke Street?

4 VICE CHAIRPERSON HOOD: Right.

5 DEPUTY DIRECTOR MCCARTHY: Oh, the actual  
6 driveway with St. Coletta's is furnishing. No, the  
7 St. Coletta's property line does not include that  
8 driveway. That would be part of the right-of-way of  
9 Burke Street eventually.

10 And that is the reason for the difference  
11 between the earlier drawings that showed the driveway,  
12 and then showed additional green space south of that  
13 was that St. Coletta's was indicating that use there  
14 temporarily until there was other use made of the  
15 land.

16 But we asked them to make it easier for  
17 the Commission to determine what actually was in the  
18 PUD and to just have the drawings indicate that which  
19 was going on on their property. So the driveway is  
20 not -- the property of St. Coletta's is actually the  
21 right-of-way of Burke School, of Burke Street.

22 VICE CHAIRPERSON HOOD: Burke Street.

23 COMMISSIONER PARSONS: That prompts a  
24 couple of questions. So the proper of doing  
25 landscaping between there and future C Street is off

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the table; is that correct?

2 DEPUTY DIRECTOR MCCARTHY: That's correct.

3 COMMISSIONER PARSONS: Okay. So who then  
4 owns this space that is going to house this driveway  
5 or future Burke Street?

6 MS. BROWN-ROBERTS: Right now, I think it  
7 is a District of Columbia's property.

8 COMMISSIONER PARSONS: So in order for  
9 them to use it then, and use it for egress, they need  
10 more than a letter with DDOT don't they? Don't they  
11 need some kind of a lease or agreement to use this?  
12 It is literally the sole access to their site here.

13 DEPUTY DIRECTOR MCCARTHY: We have already  
14 --

15 COMMISSIONER PARSONS: I mean, is there an  
16 unsigned letter agreement with VDOT, right?

17 DEPUTY DIRECTOR MCCARTHY: Yes. Since the  
18 street is under -- since the property is under the  
19 control of the District of Columbia, and there is a  
20 lease, I think it would be relatively easy for us to  
21 include that additional language in the lease, making  
22 that clear that St. Coletta's has the right of use of  
23 that until it becomes actually a formal street.

24 VICE CHAIRPERSON HOOD: So, I -- Mr.  
25 Parsons, are you finished?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   DEPUTY DIRECTOR MCCARTHY:    Would that meet  
2 your concern, Mr. Parsons?

3                   COMMISSIONER PARSONS:    Well, whatever is  
4 legal.

5                   VICE CHAIRPERSON HOOD:    Right.    Right.

6                   COMMISSIONER PARSONS:    Certainly this  
7 letter indicates that there will be a future Burke  
8 Street when Reservation 13 is developed, and that is  
9 encouraging.    But we certainly wouldn't want anything  
10 to preclude them from using this access.

11                  DEPUTY DIRECTOR MCCARTHY:    Right.    Yes.

12                  COMMISSIONER PARSONS:    This morning we all  
13 felt that it was within their property, and it is  
14 obviously now not.

15                  DEPUTY DIRECTOR MCCARTHY:    No, but I am  
16 sure that our legal folks and St. Coletta's could  
17 devise a use agreement that would permit them to use  
18 the property while it doesn't have a formal street on  
19 there, and then clearly they will be able to use it  
20 just like anybody else when it becomes Burke Street.  
21 So if the Commission --

22                  COMMISSIONER PARSONS:    So then it should  
23 be in our record before we take final action.

24                  DEPUTY DIRECTOR MCCARTHY:    Well, if the  
25 Commission wanted to simply put that as a condition of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the PUD, that an agreement be established with the  
2 District of Columbia to provide for St. Coletta's use  
3 of that strip of land, we would be -- you know, we  
4 would certainly then work with the relevant parties to  
5 get that effectuated before, and that could easily be  
6 done, I'm sure, before the covenant would be recorded  
7 and the other aspects of the PUD.

8 VICE CHAIRPERSON HOOD: Mr. Parsons, if I  
9 may just interrupt. I want to ask Corp Counsel if we  
10 can even deal with this and taking a proposed action.

11 COMMISSIONER PARSONS: Thank you.

12 VICE CHAIRPERSON HOOD: I guess I want to  
13 maybe direct it to Corp Counsel.

14 MS. GLAZER: Mr. Vice Chair, I think that  
15 you have raised excellent points, and I think you can  
16 take the proposed action, but it should be premised  
17 upon an agreement being reached, such as an amendment  
18 to the lease, or some other separate agreement before  
19 a final action is taken.

20 VICE CHAIRPERSON HOOD: Okay. Okay. All  
21 right. I have a number of issues, but other than that  
22 one, I was just going to raise them, and if they were  
23 issued to you, we can comment. If not, we will move  
24 expeditiously.

25 Also, the ANC had a number of issues, too,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 and we can touch base, but I think that the new letter  
2 that we just received, dated January 12th, may negate  
3 some of the concerns in which I believe the ANC had.

4 I believe that we were given some  
5 submissions from the ANC and the Capital Hill  
6 Restoration Society concerned about consistency with  
7 design guidelines for the balance of Reservation 13.

8 I believe that the Office of Planning is  
9 in full dialogue, and doing sureties. I don't know if  
10 that actually is an issue to us at this particular  
11 point in time. Anyone else feel strong on that?

12 (No response.)

13 VICE CHAIRPERSON HOOD: Okay. Moving  
14 right on. There was a concern on the retaining wall  
15 of the effect of isolating the site from the balance  
16 of Reservation 13 development. Anyone have a concern  
17 on that? I think there was a submission and it  
18 satisfied me, but there was a submission, I believe.

19 COMMISSIONER PARSONS: The submission was  
20 on the retaining wall along Burke Street.

21 VICE CHAIRPERSON HOOD: Burke Street, I'm  
22 sorry.

23 COMMISSIONER PARSONS: I am trying to make  
24 sure that we know what wall we are talking about.

25 VICE CHAIRPERSON HOOD: I think I stand to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 be corrected. What I am talking about was the  
2 retaining wall on Burke Street, which is Exhibit  
3 Number 6.

4 COMMISSIONER PARSONS: This is described  
5 as the wall from the hospital parking lot. Is that  
6 the one that you are talking about in six?

7 VICE CHAIRPERSON HOOD: Yes, that's it.  
8 Exhibit 6. And that is "the Burke Street extended."

9 COMMISSIONER PARSONS: Well, given the  
10 topography of Reservation 13, I can't imagine how you  
11 could respond to this. That is one of the problems  
12 with Reservation 13, is just that. It is moving down  
13 an elevation towards the river.

14 So I think out of necessity either you  
15 fill Reservation -- and don't even suggest that, John.

16 It is going to have to have a series of retaining  
17 walls or tables as the development occurs no matter  
18 who is doing it.

19 So they have shown, I think, a comforting  
20 rendering of their pre-cast wall here in Exhibit 6.

21 So I don't know any other solution of that than to  
22 make it as handsome as they can.

23 COMMISSIONER MAY: I would agree on that,  
24 that the topography dictates that there has to be some  
25 significant grade change there and something like a

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 retaining wall, either that retaining wall or some  
2 other version of it, is a necessity.

3 So I don't see that there is any other  
4 course that we should be prescribing at this point.

5 VICE CHAIRPERSON HOOD: Okay. I am just  
6 trying to run down the list of concerns and feel free  
7 to chime in at any time that you get ready if you have  
8 some concerns that we need to talk about.

9 And I think that the Capital Hill  
10 Restoration Society also had a question on whether  
11 this PUD and related map amendment should be zoned to  
12 SP-1 and was appropriate for the sight, and I don't  
13 know, as this may be too late to even bring this up.

14 And they would support R-4s. Is anyone  
15 interested in entertaining that idea, as opposed to  
16 SP-1 to R-4?

17 COMMISSIONER MAY: Okay. All right.

18 VICE CHAIRPERSON HOOD: Also, Mr. George,  
19 the transportation specialist, said that no buses  
20 would be parked on the site, and I don't know if that  
21 was in the decision of the proposed findings, and  
22 findings of fact, but do we want to make that a  
23 condition of the order, that no buses would be parked  
24 on the site.

25 COMMISSIONER MAY: I think there has to be

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 some ability to park a bus on the site. So we can't  
2 simply say that no buses will ever be parked on-site.

3 I would like to find out what -- I mean, do we have  
4 what was actually stated in Mr. George's report, or --

5 VICE CHAIRPERSON HOOD: I would have to do  
6 some searching. I don't know if the staff can put  
7 their hands on it faster than I could. But I would --  
8 those are just concerns that were raised, and I would  
9 -- if we are going to make an error or do anything  
10 incorrectly, I would rather us not put that in place,  
11 but we can look and see exactly what the statement  
12 was.

13 COMMISSIONER MAY: Do we know whether that  
14 was in testimony, or was it part of the report?

15 VICE CHAIRPERSON HOOD: I think it was in  
16 his report.

17 COMMISSIONER MAY: All right. I will try  
18 to look through it.

19 DEPUTY DIRECTOR MCCARTHY: Mr. Hood, I  
20 know that the buses which brings students to St.  
21 Coletta's are not their buses. The buses that drop  
22 them off are the buses of the either the D.C. School  
23 System or the other school systems who bring their  
24 students.

25 They just drop the students off, and then

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 turn around and leave. St. Coletta's may have a few  
2 vehicles of their own, but I don't think we are  
3 talking about anything that would constitute a huge  
4 long line of big coaches.

5 VICE CHAIRPERSON HOOD: Okay. So, Ms.  
6 McCarthy, maybe that won't be an issue, but I just  
7 wanted to raise it because it was raised.

8 COMMISSIONER MAY: I think it is  
9 reasonable to note that, but I am not sure exactly  
10 what the language is. But since this is a proposed  
11 action, I think that conditioning it some way on it  
12 not becoming any kind of long term parking or  
13 overnight bus parking, or whatever. That might be a  
14 reasonable condition to add.

15 VICE CHAIRPERSON HOOD: I believe that St.  
16 Coletta's probably would have a few buses, I'm sure.  
17 I know that the majority of them may be from the  
18 District Public Schools, but I don't want to  
19 necessarily just make it just to where they can't  
20 manage it. If they have 4 or 5 buses, I don't think  
21 that is asking too much.

22 COMMISSIONER MAY: Right.

23 VICE CHAIRPERSON HOOD: Personally, I  
24 would not like 30 buses, or 40 buses, which I'm sure  
25 won't happen, but I think we just need to put some

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 precautionary in place.

2 And I guess we can -- and I won't belabor  
3 the time, but we can further investigate that before  
4 we do the final action.

5 COMMISSIONER MAY: Right.

6 VICE CHAIRPERSON HOOD: Okay. That's all  
7 I have with it.

8 COMMISSIONER MAY: I think Findings of  
9 Facts, Number 27, is where we ought to put this if it  
10 was part of the testimony, but what this says is that  
11 buses will be able to stack for pickup and drop-off  
12 within the school grounds, and it should go on to say  
13 that it shall not be parked there on a permanent  
14 basis, something along those lines.

15 VICE CHAIRPERSON HOOD: Un-huh.

16 COMMISSIONER MAY: If we define the  
17 statement in the --

18 VICE CHAIRPERSON HOOD: Okay.

19 COMMISSIONER MAY: And then we could make  
20 it a condition if we would like.

21 VICE CHAIRPERSON HOOD: Okay. Anything  
22 else? And let me just also state that the letter that  
23 we received this evening, and let me put my hands on  
24 it, from VDOT. I think the ANC had modified some of  
25 their conditions in which they wanted us to approve

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 this, but unfortunately, I am not sure that they have  
2 had an opportunity to see some of the agreements  
3 here.

4 And I will just read that VDOT and St.  
5 Coletta's have agreed to the following. St. Coletta,  
6 at its own expense, design and construction of access  
7 roads to the location of the future Burke Street  
8 between 19th and Eastern edge of its property line,  
9 with the materials that will support the weight and  
10 volume of traffic entering and exiting the school.

11 When development patterns of Reservation  
12 13 warrant it, VDOT will construct a standard roadway  
13 on Burke Street. I think that is one of the things  
14 that they had asked for.

15 And St. Coletta's will contribute a  
16 portion of design and construction costs for this  
17 road, and St. Coletta's will pay VDOT for half of the  
18 design and construction costs, or \$415,000, whichever  
19 is smaller.

20 And then it has a little more, and I won't continue to  
21 read it, but I think that they have addressed a number  
22 of issues that I see that was raised in the ANC  
23 letter, ANC-6B's letter, dated December 10th, 2003.

24 The only issue, and I know that we just  
25 got it and this is not signed, but I guess that will

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 be worked out between the Department of Transportation  
2 and St. Coletta's.

3 And if it needs to be signed, I guess it  
4 will be taken care of before the final action. But  
5 let's go to the proposed order, and we can just run  
6 through it. We have all had a chance to look at it,  
7 and we will just run through it. Any issues other  
8 than what Mr. Parsons has already proposed for 27?

9 MS. GLAZER: Mr. Vice Chair.

10 VICE CHAIRPERSON HOOD: Yes, Ma'am?

11 MS. GLAZER: If I may just interject.  
12 Regarding the proposed order, Corporation Counsel has  
13 reviewed it, and we feel that there is some issues  
14 that need to be worked out, and we are willing to do  
15 that before the time of the final action to discuss  
16 mostly format issues regarding the order, and I just  
17 wanted to note that.

18 VICE CHAIRPERSON HOOD: Okay. Would you  
19 need a motion or something for us to do any  
20 flexibility, or would we just give you a general  
21 consensus to fine tune the order?

22 MS. GLAZER: Yes, I think that would be  
23 sufficient.

24 VICE CHAIRPERSON HOOD: Okay. Colleagues,  
25 you have heard Corporation Counsel on fine tuning the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 order. Any issues with that?

2 COMMISSIONER MAY: No.

3 VICE CHAIRPERSON HOOD: Then thank you.

4 And I am just skimming through the order, and page  
5 one, I went right through it. Page 2. Page 3. Page  
6 4. Any issues?

7 COMMISSIONER MAY: I jut have a question.

8 I know that I have raised this before, and it is a  
9 very minor point, but Number 21, the reference to the  
10 Capital Hill and Hill East community.

11 I know that Hill East is a name that the  
12 Office of Planning at least has been using with some  
13 regularity, and I just don't know whether it has any  
14 actual official recognition that this is what the  
15 community there is called.

16 You know, I have seen it referred to in  
17 maps as Capital East, but I couldn't put my hands on a  
18 map that says that at this moment. So I just  
19 wondered.

20 DEPUTY DIRECTOR MCCARTHY: Actually,  
21 generally we use Hill East because it is a heck of a  
22 lot catchier than Reservation 13. But essentially  
23 when we say Hill East, we are talking about  
24 Reservation 13, and I guess the area is sort of  
25 immediately around there, but it is geared mostly at

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the Reservation 13 area.

2 COMMISSIONER MAY: So the reference in  
3 Number 21 to the Hill East Community, and I am sure  
4 that they are not talking about Reservation 13 there,  
5 and talking about the people who are across 19th  
6 Street?

7 DEPUTY DIRECTOR MCCARTHY: Right.

8 COMMISSIONER MAY: So maybe that reference  
9 is slightly off target, but that is just a minor  
10 thing.

11 COMMISSIONER PARSONS: It could be major  
12 to other people living on the other side of the  
13 street, okay? And should we delete Hill East and say  
14 Capital Hill community, and that is sufficient?

15 COMMISSIONER MAY: I don't know if there  
16 is an official boundary for Capital Hill other than --  
17 I mean, some people go by the historic District  
18 boundary, but I don't think that has any legal  
19 bearing.

20 DEPUTY DIRECTOR MCCARTHY: Right. And  
21 actually my colleagues are correcting me that that far  
22 east people do consider themselves residents of Hill  
23 East and not Capital Hill.

24 But whether the boundary is 17th Street,  
25 or whether it is further west of that. There is not 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 clearly defined boundary.

2 COMMISSIONER MAY: So that is something  
3 that came out of the community, as opposed to  
4 something that you have used

5 DEPUTY DIRECTOR MCCARTHY: Yes.

6 COMMISSIONER MAY: Okay. I will note that  
7 I lived in that community for 15 years and nobody ever  
8 called it that, but that does not surprise me.

9 COMMISSIONER PARSONS: Soon after you  
10 left.

11 COMMISSIONER MAY: There we go.

12 VICE CHAIRPERSON HOOD: So we are going to  
13 keep the --

14 DEPUTY DIRECTOR MCCARTHY: That was when  
15 you were still downtown east.

16 VICE CHAIRPERSON HOOD: Okay. So we will  
17 keep that in the order. Commissioner May, you don't  
18 have a problem with that?

19 COMMISSIONER MAY: No, it is a minor  
20 point. So long as there is some general recognition  
21 about what we are referring to here, I think that's  
22 fine.

23 VICE CHAIRPERSON HOOD: Okay. Then there  
24 are no more issues on page 4? Actually, I don't have  
25 any through the findings of facts and conclusions of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 law, but I just wanted to see if you all had any  
2 additions to page 5, and we also said what we would do  
3 with 27 for final action, and that is dealing with the  
4 bus issue. We need further clarification. Okay.  
5 Page 6.

6 (No response.)

7 VICE CHAIRPERSON HOOD: Page 7.

8 (No response.)

9 VICE CHAIRPERSON HOOD: Page 8.

10 (No response.)

11 VICE CHAIRPERSON HOOD: You know, in  
12 looking, we talked about the first source agreement,  
13 and I have this marked for some reason. Did we get  
14 something submitted about the jobs? I think we did.  
15 Oh, yes, I'm sorry, Exhibit Number 7. Okay.

16 MS. GLAZER: Mr. Vice Chair.

17 VICE CHAIRPERSON HOOD: Yes.

18 MS. GLAZER: If I may interject one thing  
19 regarding the amenities. If you would turn to  
20 paragraph 31. The amenities are listed on the  
21 proposed order, and it would be useful to the  
22 Commission to deliberate on the specific amenities  
23 that are provided and balance them against the zoning  
24 relief requested, and identify which amenities it  
25 considers to be superior.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 VICE CHAIRPERSON HOOD: Okay. So you are  
2 saying that we need to say which amenities are  
3 superior, and we need to discuss that?

4 MS. GLAZER: Yes.

5 VICE CHAIRPERSON HOOD: Okay. On page 6,  
6 number 31, the St. Coletta project includes the  
7 following public benefits and project amenities. High  
8 quality architectural landscape design. And would we  
9 say that is a public benefit or a project amenity?

10 COMMISSIONER PARSONS: I'm sure that it is  
11 in the eye of the beholder, but I think it is  
12 superior.

13 VICE CHAIRPERSON HOOD: Superior.

14 COMMISSIONER PARSONS: Vastly superior.

15 VICE CHAIRPERSON HOOD: Well --

16 COMMISSIONER MAY: I agree. I think that  
17 this project has definitely been an issue in the eye  
18 of the beholder, and there is certainly people in the  
19 vicinity who think that it is not a very attractive  
20 building.

21 I have to admit that the very first  
22 renderings that I saw that maybe it was the  
23 reproduction, and maybe it was the design. I wasn't  
24 so thrilled, but as I learned more and more about the  
25 project, and understood more about the design, I am

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 now thoroughly convinced that it is a superior  
2 architectural design and it is really going to be a  
3 landmark building for that corner.

4 And I think it will be in the long term be  
5 a true benefit, and it will wind up shining over the  
6 years.

7 VICE CHAIRPERSON HOOD: What I took away  
8 from it was that the -- I forgot who, but there was  
9 testimony given at the hearing that it stated that had  
10 something to do with the children's learning.

11 I don't know if that is correct or not,  
12 but I will also agree that it is probably a benefit.

13 VICE CHAIRPERSON HOOD: All right. Do we  
14 have to discuss each one of these? And, forgive me,  
15 but I am a little rusty at this.

16 MS. GLAZER: It would be useful. I don't  
17 know if you heard me, but I just said that it would be  
18 useful to go through them and identify the amenities.

19 VICE CHAIRPERSON HOOD: Okay. Yes, it  
20 shouldn't take us but 5 minutes to do that. B,  
21 effective and safe vehicle and pedestrian access, and  
22 transportation management measures, accessibility to,  
23 and use of public transit service, and the other  
24 measures to mitigate adverse traffic impacts. Benefit  
25 or amenity?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER MAY: Benefit or amenity?  
2 Well, I mean, for the overall project, we are  
3 essentially mitigating the impact, and the project  
4 mitigates any adverse traffic impacts, and I don't  
5 know whether that is a benefit or an amenity, or  
6 simply offsetting the impact of the project.

7 COMMISSIONER PARSONS: Well, it is  
8 certainly superior to a matter of right, which is what  
9 this is about.

10 COMMISSIONER MAY: Right. True. Okay.

11 VICE CHAIRPERSON HOOD: All right.  
12 Employment and training opportunities.

13 COMMISSIONER PARSONS: I don't find  
14 anything particularly superior here about that.

15 VICE CHAIRPERSON HOOD: No, I wouldn't  
16 either, but --

17 COMMISSIONER MAY: But again compared to  
18 matter of right though? I mean, in a matter of right,  
19 there is no requirement whatsoever for a source  
20 agreement.

21 COMMISSIONER PARSONS: Oh, this is  
22 employment and training.

23 VICE CHAIRPERSON HOOD: Employment and  
24 training opportunities.

25 COMMISSIONER PARSONS: Yes. There is

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 nobody being employed on the site now.

2 COMMISSIONER MAY: Well, no --

3 COMMISSIONER PARSONS: It is our benefit.

4 VICE CHAIRPERSON HOOD: Well, is nobody is  
5 being employed now, and if that is the way that we  
6 look at it, then I would say that that was a benefit.

7 COMMISSIONER PARSONS: It is a benefit,  
8 but the word superior has crept into the conversation.

9 VICE CHAIRPERSON HOOD: Superior.

10 COMMISSIONER PARSONS: That's all I am  
11 commenting on.

12 VICE CHAIRPERSON HOOD: Well, I think we  
13 are just supposed to be discussing whether it is --  
14 well, a superior benefit or a superior project  
15 amenity. Is that what we are discussing?

16 COMMISSIONER MAY: I think we need to --  
17 since Corporation Counsel requested us to go through  
18 this sort of line by line, I guess I would benefit  
19 myself from knowing exactly what they are trying to  
20 get out of us. Is this considered superior?

21 MS. GLAZER: Is that question directed to  
22 me?

23 COMMISSIONER MAY: Yes.

24 MS. GLAZER: Yes, Mr. May. Just which  
25 benefits do you regard as superior should be labeled

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 as such and balanced accordingly.

2 COMMISSIONER MAY: Okay.

3 VICE CHAIRPERSON HOOD: I'm sorry, Ms.  
4 Glazer, could you repeat what you said? I'm sorry.

5 MS. GLAZER: I said I think it is a pretty  
6 simple matter just going through the list and  
7 identifying which benefits they have identified that  
8 you believe are superior.

9 VICE CHAIRPERSON HOOD: Okay. Do we need  
10 to start all over again, colleagues?

11 COMMISSIONER PARSONS: No.

12 VICE CHAIRPERSON HOOD: Okay. Employment  
13 training and opportunities.

14 COMMISSIONER PARSONS: Superior.

15 VICE CHAIRPERSON HOOD: Superior.  
16 Education, therapeutic and social services, primarily  
17 for the District of Columbia students. Superior.

18 COMMISSIONER PARSONS: Yes.

19 VICE CHAIRPERSON HOOD: Availability of  
20 facilities including a gymnasium, atrium hall, meeting  
21 rooms, and studio space for public use after school,  
22 and on the weekends. Superior.

23 COMMISSIONER PARSONS: Yes.

24 VICE CHAIRPERSON HOOD: Environmental  
25 benefits, such as storm water run-off controls,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 landscaping and preservation of open space.

2 COMMISSIONER MAY: In this area, except  
3 for the landscape design, which is addressed in Item  
4 A, I don't think that anything here truly ranks as  
5 superior. It is standard to do run-off controls. So,  
6 storm water run-off.

7 VICE CHAIRPERSON HOOD: I would agree.  
8 First source employment opportunities pursuant to the  
9 first source employment agreements with the Department  
10 of Employment Services. This is one that they  
11 proffered, and this is something that they don't  
12 really have to engage in at this point.

13 COMMISSIONER PARSONS: Right.

14 VICE CHAIRPERSON HOOD: So I wouldn't say  
15 that is superior. Are we in agreeance?

16 COMMISSIONER PARSONS: Yes.

17 VICE CHAIRPERSON HOOD: Okay. Support of  
18 teacher training, parent training, and  
19 paraprofessional development -- I haven't heard that  
20 one -- which would be open to employees from the D.C.  
21 Public Schools in partnership with the District of  
22 Columbia.

23 COMMISSIONER PARSONS: Superior.

24 VICE CHAIRPERSON HOOD: Superior.

25 COMMISSIONER PARSONS: Yes.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 VICE CHAIRPERSON HOOD: Okay. We have  
2 done that on page 31 for the record, and now we will  
3 continue in the order. Anything else on page 6,  
4 unless Ms. Glazer, that is not sufficient? Is there  
5 anything else that we need to do with that?

6 MS. GLAZER: No, I think that is  
7 sufficient.

8 VICE CHAIRPERSON HOOD: Okay. Thank you.  
9 Page 7.

10 (No response.)

11 VICE CHAIRPERSON HOOD: Page 8.

12 (No response.)

13 VICE CHAIRPERSON HOOD: Page 9. We can  
14 look at page 42, and it says in response to issues  
15 raised by the Zoning Commission members during the  
16 November 3rd, 2003 public hearing, the record was left  
17 open for the applicant to provide the materials and  
18 information.

19 I guess I will just pose a question. As I  
20 stated earlier, we received the post-hearing  
21 submission, and while all of your concerns and our  
22 concerns address.

23 (No response.)

24 VICE CHAIRPERSON HOOD: Okay. Hearing  
25 nothing, silence, I will know that is okay. Page 10.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   COMMISSIONER MAY: Do we want to make note  
2 of this on 43, back to page 9, the valet parking, if  
3 there is a need during events. I am not sure, but  
4 this may be covered in other findings as well.

5                   But the school agreed to provide the  
6 measurements. When a major event takes place at the  
7 school to alleviate parking demand, to the extent that  
8 valet parking within the existing parking lot and  
9 driveway, and use of parking elsewhere on Reservation  
10 13, and use of parking lots at D.C. Armory or RFK, and  
11 dissemination of information for public  
12 transportation.

13                   The stacked valet parking or valet parking  
14 at all would I guess -- well, I guess the question  
15 remains what is the threshold for having to go to  
16 these additional measures, and do we want to try to  
17 address that in some fashion.

18                   VICE CHAIRPERSON HOOD: I guess -- let me  
19 make sure that I understand your question. What is  
20 going to trigger when we go to what is proposed about  
21 the valet parking, and at what point does that  
22 trigger, is that where you are doing? At what point  
23 does that kick in?

24                   COMMISSIONER MAY: Yes, at what point does  
25 it kick in? I mean, the other alternative of the use

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 of other parking lots, there is no shortage of parking  
2 in the vicinity, but there is also parking in the  
3 neighborhood, and I know that events -- I mean, that  
4 is an area where there are already a significant  
5 number of events.

6 The Armory has events and there is always  
7 that  
8 -- you know, the opportunity or the chance that there  
9 may be an event at the school on a night when there is  
10 another event.

11 I mean, it gets to be sort of a  
12 complicated formula, but I think that we need t try to  
13 find, or it would be good to try to find a way -- and  
14 i am not sure that we can find one -- to address when  
15 the additional parking kicks in.

16 I mean, the issue here I think with the  
17 parking is that -- or with valet parking specifically,  
18 is that it is just that much easier for people going  
19 to the events. There may be other parking and other  
20 events going on, and it is taking up other parking,  
21 and there may be parking that is not very far away,  
22 but people aren't going to walk that far to get to it.

23 And so we don't want them as an  
24 alternative to be parking along 19th Street, or on  
25 Burke Street, or the other neighborhood streets.

**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 These events usually are occurring at night, and there  
2 is not anything to prevent people from parking in the  
3 neighborhood and walking across the street.

4 But if there is valet parking, people are  
5 going to pull up and use the valet parking.

6 COMMISSIONER PARSONS: So why don't we  
7 then go to page 14-8 at the bottom. What eight says  
8 is that they are going to institute and maintain a  
9 transportation management program, which will include  
10 the following and there is five bullets.

11 And the fifth one says, "Use of valet and  
12 existing parking lots in the vicinity of the school  
13 for special events." What if we inserted in there,  
14 "which exceed the capacity of the parking lots in the  
15 facility."

16 Because that's when the valet parking  
17 should kick in, right?

18 COMMISSIONER MAY: Okay.

19 VICE CHAIRPERSON HOOD: I'm really not --  
20 well, it sounds good, because I don't understand. I  
21 am not following that, because shouldn't we have  
22 something preliminarily, depending upon the event,  
23 that maybe the school can work out?

24 And let me back up. I thought in the  
25 testimony, and I think that they have special event

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 notices or something over in that area, and I would --

2 COMMISSIONER MAY: Not every block. It is  
3 block by block, and the block has to petition to get  
4 it.

5 VICE CHAIRPERSON HOOD: No, not the 2 hour  
6 parking.

7 COMMISSIONER MAY: No, I know. The  
8 special event parking.

9 VICE CHAIRPERSON HOOD: The special event  
10 parking.

11 COMMISSIONER MAY: To get the stickers,  
12 you have to petition block by block to be able to get  
13 it. Not every block has it.

14 VICE CHAIRPERSON HOOD: So we are back to  
15 Commissioner Parson's idea.

16 COMMISSIONER PARSONS: You see, this does  
17 not provide for anybody to approve this transportation  
18 management plan. It is just something that we are  
19 requiring, and should address all these issues.

20 COMMISSIONER MAY: I think the notion of  
21 simply tying when valet parking kicks in as being tied  
22 to their parking, and parking that they can control --

23 COMMISSIONER PARSONS: Right.

24 COMMISSIONER MAY: I think is sufficient.  
25 The idea of using other parking is probably, you

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 know, reasonable as well, but as I recall the  
2 configuration being able to use, there are a lot of  
3 times when the parking in the neighborhood fills up  
4 long before the available event parking on the Armory  
5 grounds winds up filling up.

6 So I think it has to be tied to what they  
7 can control, and what people feel is close enough.

8 VICE CHAIRPERSON HOOD: Okay. Mr.  
9 Parsons, you said right after the colon that you  
10 instituted some language?

11 COMMISSIONER PARSONS: Which exceed the  
12 capacity of the parking lots of the facility.

13 VICE CHAIRPERSON HOOD: All right.

14 COMMISSIONER PARSONS: I am not sure that  
15 should be plural, but there is a number of smaller  
16 parking areas, and so that is what I meant by that.

17 VICE CHAIRPERSON HOOD: Okay. That sounds  
18 good. Any other issues on page 14? Oh, no, wait a  
19 minute. We have to go back to page 9. How did we get  
20 to 14? I think that was addressed.

21 COMMISSIONER MAY: I think we had  
22 Condition 43, or Finding 43.

23 VICE CHAIRPERSON HOOD: Yes, Finding 41.

24 COMMISSIONER MAY: Okay. Page 10.

25 VICE CHAIRPERSON HOOD: All right. Page

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 10?

2 COMMISSIONER MAY: Yes.

3 VICE CHAIRPERSON HOOD: Dealing with ANC  
4 issues, which we have already addressed, I believe.

5 Page 11.

6 (No response.)

7 VICE CHAIRPERSON HOOD: Page 12.

8 COMMISSIONER PARSONS: Two.

9 VICE CHAIRPERSON HOOD: Almost made it.

10 COMMISSIONER PARSONS: Yes. I have just  
11 noticed something creeping into this draft order, and  
12 it is on page 11. It has to do with this issue of  
13 flexibility with design.

14 And here they are actually asking for  
15 flexibility which under the guidance of this architect  
16 I think is okay, but I would hate to see -- normally  
17 when we have flexibility on design issues, it is  
18 because they are going before the Historic  
19 Preservation Review Board, or the Commission of Fine  
20 Arts, or some other body with jurisdiction that is  
21 going to maybe affect design.

22 But here they are just saying to make  
23 minor refinements to the heights of parapets and  
24 grooves below the height of 58 feet, and the word  
25 minor is left to their interpretation.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   And secondly on page 14, then it goes on  
2 that in the facade viewing and fenestration, I have  
3 problems with that because I think what we do is in  
4 this flexibility clause that is common to all of our  
5 PUDs, is one, yes, reads -- and the next order that we  
6 look at on a project that we are maybe not as  
7 comfortable with, or some of us are, is in the hands  
8 of vandalism.

9                   And you say that is not the building that  
10 we approved.

11                   VICE CHAIRPERSON HOOD: I see that quite a  
12 bit.

13                   COMMISSIONER PARSONS: I also wanted to  
14 talk about the quality of materials to make sure that  
15 the quality of the materials is retained.

16                   VICE CHAIRPERSON HOOD: Mr. Parsons, can I  
17 ask that you do -- unless all of that is -- and it is  
18 almost like we are having three issues here at the  
19 same time, and I would --

20                   COMMISSIONER PARSONS: Would you like a  
21 couple of more?

22                   VICE CHAIRPERSON HOOD: Can we deal with  
23 one at a time.

24                   COMMISSIONER PARSONS: Yes, definitely.

25                   VICE CHAIRPERSON HOOD: The flexibility

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 issue. Do we normally -- and I know that this a crazy  
2 question, but when you look at this stuff so much it  
3 runs together, but is that a normal statement that we  
4 use?

5 COMMISSIONER PARSONS: To make minor  
6 refinements to heights of parapets and roofs? No.

7 VICE CHAIRPERSON HOOD: No, I mean -- no,  
8 I know that is not a normal statement, but the  
9 applicants, let's say, have flexibility, and I know  
10 that there are instances when we do grant that.

11 COMMISSIONER PARSONS: Oh, absolutely. We  
12 always do. Like here they say in number one that if  
13 they can't buy the plant, can we use another one.  
14 Sure.

15 VICE CHAIRPERSON HOOD: Right. Okay.

16 COMMISSIONER PARSONS: And the same with  
17 final selection of materials, color arrangements and  
18 materials types proposed, but I just want to make sure  
19 that they are of the same quality. But I am jumping  
20 round and let's start with Number C.

21 VICE CHAIRPERSON HOOD: C? So A and B are  
22 fine?

23 COMMISSIONER PARSONS: B I have a problem  
24 with.

25 VICE CHAIRPERSON HOOD: So A is fine, and

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 let's take it one by one.

2 COMMISSIONER PARSONS: Thank you.

3 VICE CHAIRPERSON HOOD: B is to make minor  
4 refinements to the heights -- and would it be easier  
5 for us just to take out the word flexibility where it  
6 says applicants should have flexibility, as opposed to  
7 -- well, what are you proposing, just strike out B?  
8 Take B out, or just give it --

9 COMMISSIONER PARSONS: I think I am just  
10 trying to quantify the word minor, and I don't know  
11 quite how to do that. But minor to them may be 20  
12 feet.

13 VICE CHAIRPERSON HOOD: Should we put a  
14 parameter.

15 COMMISSIONER PARSONS: Help me, Mr. May.

16 COMMISSIONER MAY: Well, hadn't we been  
17 through this already in another recent PUD, where what  
18 was considered minor in the end the Zoning Commission  
19 determined was not minor.

20 COMMISSIONER PARSONS: What we used to do  
21 a long time ago was if you want to make these kinds of  
22 refinements, you come back.

23 COMMISSIONER MAY: Right, but I think that  
24 the definition of what is minor and what is  
25 flexibility is something that has been left up to the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Zoning Administrator.

2 COMMISSIONER PARSONS: Right, but not in  
3 height and fenestration, and facade detailing, no. It  
4 is usually -- and I am being redundant, but if it had  
5 been to some other panel that has requested,  
6 suggested, or demanded these kinds of changes --

7 COMMISSIONER MAY: No, you are right. I  
8 was thinking of another recent case where there were  
9 balconies added or eliminated, or something like that.  
10 It was determined that was not a minor modification,  
11 or minor change.

12 COMMISSIONER PARSONS: Right.

13 COMMISSIONER MAY: It was not even a minor  
14 modification by our definition, and is something that  
15 they tried to do with what the ZA had the authority to  
16 approve.

17 COMMISSIONER PARSONS: Right.

18 COMMISSIONER MAY: Well, I agree with you.  
19 I think that we need to establish some limits on  
20 this. Since there is not other approvals involved  
21 then theoretically we should be looking at something  
22 that is really just subject to detailing, and not  
23 subject to redesign, if you can understand that  
24 difference.

25 COMMISSIONER PARSONS: Yes, this is pretty

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 conceptual stuff, right?

2 COMMISSIONER MAY: Right.

3 COMMISSIONER PARSONS: I am worried more  
4 about the precedent than I am this project.

5 COMMISSIONER MAY: Right. I would agree  
6 with that, too.

7 VICE CHAIRPERSON HOOD: So I again go back  
8 to my original question. Do we take out the word  
9 flexibility? In that case, are we limiting -- and  
10 like I said, with C, I don't think you have a problem  
11 with C do you? Normally when it is inside, we don't.

12 COMMISSIONER PARSONS: Well, the word  
13 elevators has crept into these recently, and I won't  
14 belabor that. But I don't know how you move an  
15 elevator without moving the penthouse.

16 COMMISSIONER MAY: Well, this does not  
17 have the qualification that often appears with this  
18 phrase, saying that so long as the exterior is not  
19 changed. Normally when we view that paragraph to vary  
20 the location and design of interior components,  
21 including stairways and elevators, and what not, it is  
22 usually followed by a, "so long as the exterior of the  
23 building doesn't change."

24 COMMISSIONER PARSONS: Right.

25 COMMISSIONER MAY: So at the very least,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 we need to have that line in there.

2 COMMISSIONER PARSONS: Okay.

3 VICE CHAIRPERSON HOOD: I am being -- let  
4 me just say this. I am being directed to in our  
5 regulations to 2522.1, minor flexibility by the Zoning  
6 Administrator's rules.

7 And this might not go to your point, Mr.  
8 Parsons, but 2225.1A says that deviations not to  
9 exceed 2 percent of the area requirements governing  
10 minimum lot areas, percentage of lot area, and areas -  
11 0 -- and it goes on about how much the flexibility, or  
12 what the Zoning Administrator, and his deviation not  
13 to exceed the greater of 2 percent.

14 I don't know if that addresses where you  
15 are going, but --

16 COMMISSIONER PARSONS: The only area that  
17 would affect is this Number B, which we are still on  
18 technically, and that is that they want to -- the  
19 flexibility to change the heights of parapets and  
20 roofs, and I don't know what the significance of below  
21 the height of 50 feet is, 58 feet is.

22 So if I had my druthers, I would take that  
23 out and take out the references to facade detailing  
24 and fenestration, and if they have to change the  
25 project, they would bring it back.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 VICE CHAIRPERSON HOOD: You are saying  
2 that you would take out B?

3 COMMISSIONER PARSONS: B, and I would take  
4 out B, E(i)).

5 VICE CHAIRPERSON HOOD: B, D, E(i)? Let  
6 me ask you -- let's go back to B. What was the last  
7 one? So they won't have to bring it back, and this  
8 might be kind of farfetched, but what if we said plus  
9 or minus that 58 feet, because I just -- I mean, that  
10 way you are only giving them flexibility of 2 feet  
11 either on the top or the bottom.

12 And I am just throwing that out there, and  
13 I am trying to give them a little room, and actually 2  
14 feet is not much room to work with.

15 COMMISSIONER PARSONS: So you are saying  
16 to make minor refinements up to 2 feet to the heights  
17 of parapets and roofs below the height of 58 feet?

18 VICE CHAIRPERSON HOOD: Right.

19 COMMISSIONER PARSONS: All right.

20 VICE CHAIRPERSON HOOD: That's okay? Then  
21 maybe we won't have to have a whole another case, not  
22 that I am opposed to it, but maybe that may help them.  
23 I don't see anybody's head, and I am not even  
24 looking. As opposed to just taking it out.

25 COMMISSIONER PARSONS: And my next one is

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 E(i) in the facade and detailing fenestration.

2 VICE CHAIRPERSON HOOD: E?

3 COMMISSIONER PARSONS: Facade detailing  
4 and fenestration. Maybe the word detailing gets to  
5 it, Mr. May. I don't know.

6 COMMISSIONER MAY: Well, facade detailing  
7 to me applies changing -- you know, whether a marstone  
8 window sill is chamfered or not. You know, that is  
9 detailing. It is not whether to put shutters and  
10 awnings on it.

11 COMMISSIONER MAY: Right.

12 COMMISSIONER PARSONS: Okay.

13 COMMISSIONER MAY: So that is pretty  
14 minor.

15 COMMISSIONER PARSONS: I guess we have  
16 filled the record far enough with this.

17 COMMISSIONER MAY: Well, no, no, hold on.  
18 But facade fenestration is different. I mean,  
19 fenestration is what holes go where.

20 COMMISSIONER PARSONS: Yes.

21 COMMISSIONER MAY: And so to me that means  
22 that if they want to add more windows, we have given  
23 them the ability to make minor adjustments, because  
24 that is a minor adjustment. Now adding windows is not  
25 a minor adjustment.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER PARSONS: No. So you want to  
2 keep fenestration out of there?

3 COMMISSIONER MAY: Well, I mean, I guess  
4 in the context of making minor adjustments, and I  
5 don't see a big problem with being able to vary the  
6 width of a window from 4 feet to 4 foot 2, because  
7 that is the way the module works on the masonry or  
8 something like that. I mean, it's not --

9 COMMISSIONER PARSONS: Un-huh.

10 COMMISSIONER MAY: Sure, although that  
11 would make sense. But forget about that. I think in  
12 the context of minor adjustments, I don't have a big  
13 problem with facade detailing and fenestration.

14 COMMISSIONER PARSONS: All right.

15 COMMISSIONER MAY: But it is definitely  
16 minor. The minor refinements to the height of  
17 parapets and roof below the height of 58 feet, well, I  
18 just looked through the drawings that I have, and it  
19 seems like the building is only 52 feet high.

20 So does this mean that we are saying that  
21 the building can go up to 58 feet? Now, maybe I am  
22 reading the plans wrong, or -- but I think when it  
23 comes to --

24 COMMISSIONER PARSONS: How about the  
25 curtains though, the parapets, and so forth? Are they

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 shown above 52 feet?

2 COMMISSIONER MAY: No, but what I am  
3 reading is -- shows the height of the highest part,  
4 the top of finished tower skylight, and it says about  
5 2. text here. The opposite of 52.11.

6 COMMISSIONER PARSONS: Well, let's call it  
7 a typo then.

8 COMMISSIONER MAY: Below the height of  
9 52.11 feet, because that still then gives the ability  
10 to raise or to lower. You see, I think again tying  
11 this to the overall exterior configuration of the  
12 building is more relevant than the height.

13 So make minor refinements to heights of  
14 parapets and roofs within the overall exterior  
15 configuration of the building, whatever that line is  
16 that appears in other orders.

17 COMMISSIONER PARSONS: So drop the  
18 reference to 58 feet?

19 COMMISSIONER MAY: Drop the reference to  
20 58 feet, because I don't want them to -- we don't want  
21 this to go to 58 feet if it is only 53 feet. But I  
22 also see no big deal with tweaking roof heights and  
23 parapets overall.

24 COMMISSIONER PARSONS: Nor do I.

25 COMMISSIONER MAY: So long as the overall

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 appearance of the building from the exterior is  
2 maintained.

3 VICE CHAIRPERSON HOOD: Okay. So we are  
4 going to keep B and we are doing to drop the 58 feet?

5 COMMISSIONER MAY: Yeah.

6 VICE CHAIRPERSON HOOD: We are in  
7 agreeance with that?

8 COMMISSIONER MAY: Yeah, and quality it as  
9 I said with the external configuration and I know that  
10 is a standard line that appears in other orders.

11 COMMISSIONER PARSONS: So buying the 2  
12 foot adjustment?

13 COMMISSIONER MAY: Two foot?

14 VICE CHAIRPERSON HOOD: No, no, we can --  
15 believe me, we can take that out. I just threw that  
16 in there.

17 COMMISSIONER MAY: Okay.

18 COMMISSIONER PARSONS: All right.

19 VICE CHAIRPERSON HOOD: Okay. Mr.  
20 Parsons, you also mentioned about the elevators. Did  
21 you want to take that out of --

22 COMMISSIONER PARSONS: No, no, I give up.

23 VICE CHAIRPERSON HOOD: So we are fine --  
24 we have taken out the 58 feet in B, and actually that  
25 is all that we have done, right?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER PARSONS: Correct. And at  
2 the bottom of page 14 is that thing about valet  
3 parking.

4 VICE CHAIRPERSON HOOD: Yes, we have  
5 instituted that already about the valet parking.

6 COMMISSIONER MAY: Mr. Parsons, you  
7 mentioned Item D under flexibility, and I will wait  
8 for Mr. Parsons. Mr. Parsons, you mentioned Item D  
9 under flexibility as well?

10 COMMISSIONER PARSONS: I'm sorry.

11 COMMISSIONER MAY: Do you have an issue  
12 with that?

13 COMMISSIONER PARSONS: It was the quality  
14 of materials that was fairly high that I wanted to --  
15 that as long as those materials do not decrease the  
16 quality -- and something I need help with here. You  
17 are an architect.

18 COMMISSIONER MAY: Okay. I think that so  
19 long as we have a line in there like as long as the  
20 overall quality of materials is not diminished. But  
21 if they don't change types theoretically, we are not  
22 seeing a change in quality.

23 VICE CHAIRPERSON HOOD: So we are going to  
24 add quality, or as long as the quality of materials  
25 are not --

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER MAY: Is maintained, the best  
2 quality of materials is maintained.

3 VICE CHAIRPERSON HOOD: Okay. Quality is  
4 maintained. Okay. Anything else on this page, page  
5 13? I think we have satisfied Mr. Parsons' issue on  
6 the top of page 14, fenestration.

7 COMMISSIONER PARSONS: Yes.

8 VICE CHAIRPERSON HOOD: And that is going  
9 to remain. Anything else on page 14?

10 (No response.)

11 VICE CHAIRPERSON HOOD: Okay. Page 15.

12 COMMISSIONER PARSONS: Well, Mr. Chairman,  
13 I have a problem on page 15, and it is something that  
14 really annoys me, and that is when a law firm predicts  
15 the vote of this Commission at the bottom of their  
16 draft order.

17 I have mentioned this before, and I think  
18 it is -- they are either joking, or think it is cute,  
19 but to predict a five to nothing vote here tonight is  
20 unacceptable, and I hope that they stop doing it.

21 VICE CHAIRPERSON HOOD: Well, if we had to  
22 approve what we have in front of us with a five to  
23 zero vote, we would have to deny it.

24 COMMISSIONER PARSONS: That's right.

25 VICE CHAIRPERSON HOOD: I would agree, and

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 so I hope they note the sincerity that we very  
2 seriously --

3 COMMISSIONER PARSONS: There is no reason  
4 to put that in there.

5 VICE CHAIRPERSON HOOD: Okay. I think  
6 they have heard you loud and clear. Okay. Anything  
7 else? With that, I would approve --

8 MS. GLAZER: Mr. Vice Chair.

9 VICE CHAIRPERSON HOOD: Yes?

10 MS. GLAZER: I'm sorry to interject again  
11 at this point in time.

12 VICE CHAIRPERSON HOOD: No problem. We  
13 need all the help that we can get.

14 MS. GLAZER: I am not sure if this was  
15 covered or not, but there was an issue raised by OP  
16 about the parking spaces, the three parking spaces in  
17 front of the building, and I don't know whether that  
18 was addressed.

19 VICE CHAIRPERSON HOOD: Three parking  
20 spaces?

21 COMMISSIONER PARSONS: You mean they were  
22 suggesting parallel parking out front?

23 MS. GLAZER: Yes, the parallel parking  
24 that is perpendicular.

25 COMMISSIONER PARSONS: I think they solved

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that. They didn't completely respond to OP, but I  
2 think they solved it by eliminating the double-parking  
3 that is along Independence Avenue, and have extended  
4 the building out to meet the parking, and I think they  
5 have -- well, to my liking anyway, they have solved  
6 it.

7 COMMISSIONER MAY: Sometimes when OP's  
8 issues are not addressed by the Commission, it is  
9 deliberate. I don't think we have the same issue with  
10 that. At least I don't. I mean --

11 COMMISSIONER PARSONS: I agree.

12 COMMISSIONER MAY: Well, they did respond  
13 under the same fashion. I think that OP still had an  
14 issue with it even after the response, but I just  
15 don't feel as strongly about that particular issue.

16 COMMISSIONER PARSONS: Nor do I.

17 VICE CHAIRPERSON HOOD: Well, all right.  
18 Thank you for bringing that up and to our attention.  
19 We will take note of that, and we will move forward.  
20 Now, let me go back to where I was. I would make a  
21 motion that we approve Zoning Commission Case Number  
22 03-21.

23 All the discussions that we have had  
24 previously are with this order, and other materials,  
25 and that we approve this case, Zoning Commission Case

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 03-21. Is there a second?

2 COMMISSIONER PARSONS: Second.

3 VICE CHAIRPERSON HOOD: Okay. So it has  
4 been moved and properly seconded. All those in favor?

5 (Ayes.)

6 VICE CHAIRPERSON HOOD: Opposed?

7 (No response.)

8 VICE CHAIRPERSON HOOD: Abstained?

9 (No response.)

10 VICE CHAIRPERSON HOOD: Staff, would you  
11 record the vote.

12 MS. SCHELLIN: The staff would record the  
13 vote as 3 to zero to 2, to approve Case Number 03-21,  
14 and Vice Chair Hood making the motion, and  
15 Commissioner Parsons seconding, and Commissioner May  
16 in favor, and Commissioner Hannaham not present, not  
17 voting; and Commissioner Mitten having recused herself  
18 not voting.

19 VICE CHAIRPERSON HOOD: We will now turn  
20 it back over to our Chairperson, Chairperson Mitten.

21 CHAIRPERSON MITTEN: Thank you, Mr. Hood.  
22 The next case for proposed action is Case Number 01-  
23 33TA, which is the High Density Residential Retail  
24 Overlay. If you will remember, we have -- this has  
25 been with us for a little while.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           We had an initial hearing and then we  
2 modified the proposal, and had an additional hearing,  
3 and received quite a bit of feedback from various  
4 groups in the city -- ANCs, and so on.

5           And I guess -- and we also have various  
6 reports from the Office of Planning, who have been  
7 heroic in sticking with us and bringing this forward,  
8 and I have to say that I am frustrated by the  
9 opposition. But I think I am to the point where I am  
10 willing to acquiesce.

11           I believe -- and one of the things that we  
12 have struggled to do through the process is think  
13 about this as creating a tool and not become overly  
14 distracted by -- and not that we would ignore where we  
15 might use it, but not become overly distracted by any  
16 particular location in which this might be proposed to  
17 be mapped.

18           And frankly that has been difficult. I  
19 think this is an important tool, and it could be an  
20 important tool, but in light of the very significant  
21 opposition to it, I think it might be time to just let  
22 this go.

23           And I don't necessarily find all the  
24 opposition to be well grounded, but it has gotten to  
25 the point where it is almost not worth the trouble,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 and if people seem to be satisfied with the menu of  
2 choices that we have in terms of other zoning  
3 categories, and alternatives, and maybe it is just not  
4 ripe for us to bring this to conclusion at this time.

5 Anyone else?

6 COMMISSIONER PARSONS: I agree with that.

7 I, too, am frustrated, but I think it was  
8 misunderstood from the beginning, and once you get  
9 into that circumstance, it just never is going to  
10 work.

11 The committee of a hundred -- Ms.  
12 Hargroves was encouraging us to set it aside and take  
13 a larger look at whether the decisions that we made in  
14 the '70s and '80s about residential and commercial  
15 zones was really working, and that may be something  
16 that we should look at in the alternative.

17 It is a mammoth undertaking, and it is way  
18 beyond the scale of the current workload of the Office  
19 of Planning, but maybe that is something that is worth  
20 looking at.

21 CHAIRPERSON MITTEN: Mr. May.

22 COMMISSIONER MAY: I think that I would  
23 have to say that I agree with his consensus. It is  
24 sort of a sad conclusion because there has been so  
25 much work put into this, and so much effort I think to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 try to do something that would truly serve the  
2 community that it was intended for.

3 I mean, the whole point of this is not to  
4 provide another avenue for people to make money in  
5 property development, but the whole point of this is  
6 to provide neighborhood serving retail, and there are  
7 neighborhoods that lack this sorely, and this to be  
8 able to encourage it or in fact mandate it, maybe that  
9 was where the effort went awry, where it started  
10 creating fears of what would happen to the  
11 neighborhood if this is in fact mandated by future map  
12 changes.

13 But I could just see this -- and even if  
14 we took the position that, well, it is not being met  
15 to anything in particular. It is just a tool that  
16 could be used at some point.

17 I think at the moment that anyone tries to  
18 make use of this and map it to an area, I think it is  
19 going to get a lot of people excited, and create a lot  
20 of work, and not yield very much in the end. It is  
21 unfortunate, because I do think that it was intended  
22 for the best of all purposes, and it is unfortunate,  
23 but I don't think that there is much future for it.

24 CHAIRPERSON MITTEN: Mr. Hood.

25 VICE CHAIRPERSON HOOD: I don't know how

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 much more I can add, Ma'am Chair, but in reading the  
2 submissions, one of the things that really did catch  
3 my attention was that the mention about the  
4 significant empty retail space that already exists in  
5 the city.

6 And I know that we are talking about this  
7 and using this as a tool for certain neighborhoods,  
8 but I would agree with the submittals that we have  
9 plenty of retail space here. But the question is how  
10 do we get those neighborhood services to those  
11 specific areas in which all that open space of empty  
12 retail exists for those specific sites there with  
13 nothing occupying them.

14 So I would agree with the comments that I  
15 have heard, and let's deal with this accordingly, and  
16 move forward.

17 CHAIRPERSON MITTEN: Thank you. Then I  
18 would move, with apologies, to Mr. Jackson, to deny  
19 Zoning Commission Case Number 01-33TA.

20 COMMISSIONER MAY: Second.

21 CHAIRPERSON MITTEN: Is there any further  
22 discussion?

23 (No response.)

24 CHAIRPERSON MITTEN: All those in favor,  
25 please say aye.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 (A chorus of ayes.)

2 CHAIRPERSON MITTEN: I didn't hear anyone  
3 not say aye, and so there are none opposed. Ms.  
4 Schellin.

5 MS. SCHELLIN: Yes, the staff will record  
6 the vote 4-to-0-to-1, Commissioner Mitten moving, and  
7 Commissioner May seconding, and Commissioners Hood and  
8 Parsons in favor to deny 01-33. Commissioner Hannaham  
9 not present and not voting.

10 CHAIRPERSON MITTEN: Thank you. We will  
11 move then to the first case under final action, Case  
12 Number 03-05, which is the Department of  
13 Transportation Headquarters PUD.

14 All right. We have the proposed order,  
15 and we have the report from NCPC, and I would just  
16 highlight for the Commission that the NCPC report  
17 concludes that the proposed PUD for the Department of  
18 Transportation will not negatively affect the Federal  
19 interest, except for the following elements.

20 The 50 foot setback on M Street, and the  
21 restriction of the original 3rd Street, Southeast,  
22 L'Enfant right-of-way to pedestrians, and screened  
23 vehicles.

24 And then there are several recommendations  
25 that I won't read aloud, but they relate to including

**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 provisions in our order that would accommodate their  
2 concerns in the event that the security restrictions  
3 were to be relieved to some degree in the future.

4 Anyone want to weigh in?

5 COMMISSIONER PARSONS: Do you want to talk  
6 about what you just referenced?

7 CHAIRPERSON MITTEN: Sure.

8 COMMISSIONER PARSONS: I concur with the  
9 Planning Commission to some degree on this, that the  
10 issue -- let me put it this way. If the Department of  
11 Transportation did not need this 50 foot setback, the  
12 building would not have a 50 foot setback.

13 So what I would like to try to persuade my  
14 colleagues here is that we should leave in the record  
15 a view that this facade, and I would propose the  
16 entire facade, could move forward to the lot line as  
17 is typical in this city at some point in the future.

18 Now, whether that is a finding of fact, it  
19 certainly isn't a condition. But what the Planning  
20 Commission is suggesting is two floors of retail,  
21 which in the right hands might be okay, but in the  
22 wrong hands, it could be a disaster.

23 It could look like -- well, I am not going  
24 to characterize it. And I don't want to bind a future  
25 Commission just because the FAR may not work out, or

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 who knows, 25, 30, 40 years from now.

2 But I feel strongly that this facade  
3 shouldn't be set back, and it has to be. So I am not  
4 sure that the language mentioned by the or offered by  
5 the Planning Commission would satisfy my interests or  
6 concern, but I would like to have some discussion  
7 about that.

8 CHAIRPERSON MITTEN: So what you would  
9 like the order to reflect is that we believe, and we  
10 would like to endorse -- that we believe (a) that the  
11 building should be built out under other  
12 circumstances?

13 COMMISSIONER PARSONS: Yes.

14 CHAIRPERSON MITTEN: The building should  
15 be built out to the M Street right-of-way, and that in  
16 the future we would like the Commission to permit such  
17 a change as long as the design were reviewed by the  
18 Commission?

19 COMMISSIONER PARSONS: It would be a  
20 modification to a PUD that we are approving now, yes.  
21 That is what I had in mind.

22 CHAIRPERSON MITTEN: But you would want  
23 the modification to come to this future Commission?

24 COMMISSIONER PARSONS: It would have to,  
25 absolutely.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON MITTEN: Okay. So I agree  
2 with you. I think that would have to be a finding of  
3 fact, as opposed to --

4 COMMISSIONER PARSONS: Right.

5 CHAIRPERSON MITTEN: And I think that  
6 could be  
7 -- could that be accommodated in a finding of fact,  
8 Ms. Monroe?

9 MS. MONROE: Yes. It would be not a  
10 condition, but a suggestion, is what you are looking  
11 for in the future.

12 CHAIRPERSON MITTEN: Okay. I would  
13 endorse that. Anyone?

14 COMMISSIONER MAY: I am slightly troubled  
15 by the notion. I think that -- couldn't we be  
16 satisfied simply noting the fact that the setback --  
17 that we don't like the setback, and that we would  
18 prefer that the building be on the street, but given  
19 the conditions, and given the requirements of the  
20 Department of Transportation, we understand that it  
21 has to be this way.

22 I am just afraid that we are by planting  
23 this particular seed that 30 years from now someone is  
24 going to come to the Commission and say, look, the  
25 Commission back in 2004 really wanted us to build two

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 levels of retail right out to the street, and  
2 therefore, this lovely design for retail is therefore  
3 something we really want to do.

4 COMMISSIONER PARSONS: I am not supporting  
5 that.

6 COMMISSIONER MAY: I know that you are not  
7 supporting that in terms of --

8 COMMISSIONER PARSONS: The facade all the  
9 way.

10 COMMISSIONER MAY: The facade all the way?

11 COMMISSIONER PARSONS: Yes, to the lot  
12 line, and not some add-on that is Mr. Graves' solution  
13 is here today by some other architect yet unborn who  
14 wants to affect the master's work.

15 COMMISSIONER MAY: Okay. I guess --

16 COMMISSIONER PARSONS: I am troubled by  
17 GSA's -- Mr. Maravic's across the board nationwide  
18 mandate that no matter who is in the building, if it  
19 is Federal employees, the building will be set back  
20 here, New York, Toledo, or Cincinnati. That is their  
21 mandate.

22 It has nothing to do with whether it is  
23 FBI, or the National Park Service. So if we start to  
24 apply that, we are trying to encourage Federal office  
25 buildings here for the Federal government to retain.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 But every time they come along, we are going to have  
2 this setback all the way along their buildings.

3 And it is just foreign to this city as an  
4 urban design principle, and I am trying to make sure  
5 that people knew we were doing this, but didn't want  
6 to. But not a 2-story addition, or I mean a 2-story  
7 shack on the side, which is what you are worried  
8 about.

9 COMMISSIONER MAY: That is what I am  
10 worried about.

11 COMMISSIONER PARSONS: Yes, so am I.

12 COMMISSIONER MAY: I guess even pushing  
13 the building out, I guess I won't think too long about  
14 the architectural possibilities or impossibilities  
15 there.

16 But if you are talking about a full building, then  
17 okay, I will go along with that.

18 COMMISSIONER PARSONS: Thank you. Then we  
19 are going to leave it up to Corporation Counsel as to  
20 how to word this.

21 CHAIRPERSON MITTEN: Well, I think you got  
22 the theme that we are going for. Yes, corporation  
23 counsel is going to be drafting something for that.  
24 And then I think --

25 COMMISSIONER PARSONS: And on the Planning

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Commission, if I could, they have asked us to place  
2 something in the order that I think is beyond our  
3 jurisdiction, and it talks about opening 3rd Street,  
4 which I agree with in principle, but it is not even a  
5 city street at the moment. It is part of a Federal  
6 reservation.

7 So I am not sure that we can go there as  
8 they say.

9 CHAIRPERSON MITTEN: I agree with  
10 everything that you just said. I would agree with  
11 what they are driving at, but I don't think that it is  
12 in our jurisdiction to make that change.

13 I would just want to emphasize the fact  
14 that the order needs to be changed in a few places to  
15 reflect the conclusion of the commission at our --  
16 when we took proposed action that the two sections of  
17 the building will not be considered as one building.

18 COMMISSIONER PARSONS: Right.

19 CHAIRPERSON MITTEN: And we are giving the  
20 applicant flexibility to modify the atrium in order to  
21 comply with the height act because our interpretation  
22 is that this is two separate buildings. So there  
23 would be consistency between the conclusion of law  
24 number 7, and condition number 3.

25 COMMISSIONER PARSONS: Okay.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON MITTEN: Anyone else?

2 COMMISSIONER MAY: A minor note, but on  
3 Finding 45, the Zoning Commission finds that the  
4 project offers an exceedingly high level of public  
5 benefits and project amenities. I am not big on that  
6 kind of superlative. I think that a high level is  
7 sufficient enough, and it is high enough that we have  
8 approved it, and exceedingly high makes it sound like  
9 we have gotten --

10 COMMISSIONER PARSONS: Just ever color --  
11 yellow, orange.

12 CHAIRPERSON MITTEN: Red.

13 COMMISSIONER MAY: Right. I think a  
14 simple yes or no will do.

15 COMMISSIONER PARSONS: I agree.

16 CHAIRPERSON MITTEN: I would go along with  
17 that. Anyone else? All right. Then I would move  
18 approval of Order Number 03-05, with the -- and as  
19 always, room for editorial changes before we issue the  
20 final order.

21 The addition of a finding of fact  
22 regarding the setback along M Street in accordance  
23 with the wording that Mr. Parsons had proposed, and  
24 with the editorial changes that we noted regarding the  
25 Finding of Fact Number 45, and the issue of the two

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 buildings.

2 COMMISSIONER PARSONS: Second.

3 CHAIRPERSON MITTEN: Any further  
4 discussion? All those in favor, please say aye.

5 (A chorus of ayes.)

6 CHAIRPERSON MITTEN: There are none  
7 opposed. Ms. Schellin.

8 MS. SCHELLIN: Yes. The staff will record  
9 the vote 4-to-0-to-1 to approve the order in Case  
10 Number 03-05, with the changes discussed.  
11 Commissioner Mitten moving, and Commissioner Parsons  
12 seconding, and Commissioners Hood and May in favor.  
13 Commissioner Hannaham not present, not voting.

14 CHAIRPERSON MITTEN: Thank you. Next we  
15 have Case Number 03-06, which is the Southeast Federal  
16 Center order. We also have an NCPC report on  
17 Southeast Federal Center, and they are requesting that  
18 they be included as a referral agency in the special  
19 exception process.

20 COMMISSIONER PARSONS: Which we have done  
21 in the past in other requests of this nature. I don't  
22 see any problem with that. That is just adding them  
23 to the list of District agencies, right?

24 CHAIRPERSON MITTEN: Yes. Well, I think  
25 as you suggested, and maybe it was in the DOT, that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 making the referrals earlier, as opposed to later, is  
2 actually more constructive in certain projects,  
3 particularly large projects.

4 And I would anticipate that some of the  
5 developments in the Southeast Federal Center will be  
6 of a significant scale. So I would not be opposed to  
7 -- they get their shot at it one time or another, and  
8 it is better to get it in early.

9 COMMISSIONER PARSONS: That's what I urged  
10 the Planning Commission to do, was to get over here  
11 and participate in the case, rather than wait until  
12 the end of the movie, and procedurally that is very  
13 difficult for them. But they are working on it.

14 CHAIRPERSON MITTEN: Okay. Anyone else?

15 COMMISSIONER MAY: We have received a  
16 letter from the Consortium of Universities.

17 CHAIRPERSON MITTEN: Yes, that's right.  
18 Thank you.

19 COMMISSIONER MAY: That I think we should  
20 address.

21 CHAIRPERSON MITTEN: That's right. We  
22 actually got two letters. Thank you for reminding me.

23 COMMISSIONER MAY: Yes, I was going to  
24 address them. The Consortium of Universities' letter,  
25 which recommends that we remove language from the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 proposed ruling making that would bar building  
2 structures and uses by colleges and universities at  
3 the Southeast Federal Center site.

4 I don't know how deliberate the  
5 consideration was with this issue while we were  
6 hearing the case, or when proposed action was taken,  
7 but I don't see a particular need to bar college and  
8 university use. I don't imagine that any significant  
9 portion of the site is going to be taken over for a  
10 large scale college or university, but it is  
11 conceivable that there would be some use in some sort  
12 of satellite campus or something like that for small-  
13 scale use, which I think would be appropriate and  
14 helpful.

15 And of course it would be -- in most of  
16 the zones it would be subject to a special exception  
17 approval, and in the CR districts it would be. It  
18 would not, but we could make that part of the overlay  
19 to require special exception approval of any  
20 university of that would be appropriately controlled.

21 CHAIRPERSON MITTEN: I agree with that  
22 proposal, and I would like to just go one better on  
23 that if you will allow me, which is that as part of  
24 the campus plan review that it would have to be  
25 consistent with the purposes of the Southeast Federal

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

1 Center so that we don't get -- you know, so that it  
2 doesn't become overwhelming. That they would have to  
3 be sort of fitting in.

4 COMMISSIONER PARSONS: Absolutely.

5 CHAIRPERSON MITTEN: Which I think doesn't  
6 necessarily -- isn't necessarily a consideration in  
7 the other areas where just a campus plan has to be.

8 COMMISSIONER PARSONS: Well, how do we  
9 effect that, because this certainly is the wrong place  
10 for a campus for a university, a full blown  
11 absolutely.

12 CHAIRPERSON MITTEN: Right.

13 COMMISSIONER PARSONS: So how do we write  
14 this in such a way that that isn't even on the table?  
15 That if somebody is bidding to buy this to start a  
16 university?

17 I mean, it is theoretical and may be  
18 nonsense, but what you are talking about is them  
19 leasing a building or a portion of it for extension  
20 services, or whatever of their university, and that is  
21 much different than -- well, I don't know what.

22 The University of the District of Columbia  
23 deciding that this where they want to go because the  
24 Zoning Commission encouraged it, because I think that  
25 the GSA offering does not permit for what we are

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 talking about here. Anyway--

2 CHAIRPERSON MITTEN: So you are saying  
3 that through the disposition process that they  
4 wouldn't allow it?

5 COMMISSIONER PARSONS: I am not sure of  
6 that, but I am -- and I should have more of the  
7 record, but I don't know that. But I am agreeing with  
8 you, but saying let's quantify it. It doesn't appear  
9 that we in favor of this becoming a university campus.

10 CHAIRPERSON MITTEN: Okay. So then we  
11 would have to have a limitation of some kind, either  
12 on land area that they could occupy, gross floor area  
13 that they could occupy.

14 COMMISSIONER PARSONS: And I don't know  
15 how to do that.

16 MS. MONROE: Madam Chair, could I just say  
17 one thing here.

18 COMMISSIONER PARSONS: Thank you.

19 MS. MONROE: If it is a special exception,  
20 it is going to have to go through a special exception  
21 review anyway, and therefore you can't have  
22 objectionable impacts on the neighborhood. Is that  
23 kind of what you are after, that you don't want it to  
24 be too big, too objectionable? Because that might be  
25 taken care of through a special exception review.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON MITTEN: Well, this was the  
2 reason why I suggested that we would add language that  
3 would have to be compatible with the overall purpose  
4 of the Southeast Federal Center overlay, but I think  
5 that maybe the tricky part, and where John is  
6 concerned, is that there is a presumption of  
7 compatibility for a special exception.

8 And so then at what point do you say that  
9 presumption doesn't apply if you are too big?

10 COMMISSIONER PARSONS: Right. I think  
11 what got my attention is when the two of you used the  
12 word campus plan, and I am imagining that as in the  
13 newspaper tomorrow.

14 That is not what we are talking about  
15 here. Campus plan means that we are going to build a  
16 campus, and procedurally we would need a campus plan,  
17 but nobody is going to get that. We had no hearing  
18 about this, and we got a letter at the end of the  
19 movie.

20 COMMISSIONER MAY: But they are not going  
21 to get a campus plan? I mean, even these small  
22 buildings, the one building campuses that we see with  
23 some frequency, I mean, it is all still technically a  
24 campus plan is it not?

25 COMMISSIONER PARSONS: Yes, we zoning

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 junkies know that. I am talking about those bidding  
2 on the project and so forth, and if we send a signal  
3 through a misunderstanding that we think this would be  
4 a good site for a campus plan, it just is wrong.

5 COMMISSIONER MAY: What we are doing is  
6 not disallowing a college or university use of a  
7 building.

8 COMMISSIONER PARSONS: There you go. We  
9 are back on track. I mean, that is what I am trying  
10 to get that back in there if we can.

11 COMMISSIONER MAY: And let's keep it with  
12 that, and I think that the consistency issue -- I  
13 mean, when we note in the overlay requirements that  
14 this requires special exception approval, we can  
15 provide guidance with that, such that this is intended  
16 to allow use of a building, but not intended for a  
17 full-scale campus of a college or a university could  
18 we not?

19 COMMISSIONER PARSONS: I would hope so.

20 CHAIRPERSON MITTEN: Well, okay. So you  
21 say that, that they can go in a building, and they can  
22 go into Building A. Well, then we would like to go  
23 into Building B. We are in one building, and we are  
24 in another building. We have no campus. We just have  
25 a building and a building.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 I mean, I don't think that you are  
2 capturing -- you know, I understand -- I don't think  
3 you are going to be preventing what you are afraid of  
4 by what you are saying I guess is --

5 COMMISSIONER MAY: Well, I am not the one  
6 who is afraid of trying to -- well, I am trying to  
7 allay their concerns. I would hope that we would find  
8 some way to word this that would allow a college or  
9 university use, but would not allow a campus per se to  
10 develop.

11 Now, I don't know if there is something  
12 within the language of the zoning regulations that  
13 allows us to make that distinction, or we simply have  
14 to put a limit on calling it a single building and  
15 within the special exceptions, provided that no more  
16 than one building may be used by a given college or  
17 university.

18 CHAIRPERSON MITTEN: I don't know if we  
19 can do that. Can we do that, Ms. Monroe?

20 MS. MONROE: I don't think so, no. I  
21 don't know what to suggest to be honest with you,  
22 because this wasn't -- as Mr. Parsons stated, it  
23 wasn't discussed, and it wasn't brought up in the  
24 hearing. I don't know if it is a bad idea, but it is  
25 kind of a last minute idea.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON MITTEN: Certainly.

2 COMMISSIONER PARSONS: So I would like to  
3 vote on this separately, because I am going to vote  
4 against it. I don't see a way to fix it, and I think  
5 it is just not something to have through a public  
6 process at all.

7 CHAIRPERSON MITTEN: Then let's find out.  
8 Do we have an advocate for adding or for allowing  
9 colleges and universities.

10 COMMISSIONER MAY: Well, I think they  
11 should be allowed.

12 CHAIRPERSON MITTEN: Okay.

13 COMMISSIONER MAY: But I am not at this  
14 point just ready to sort of stop the presses to be  
15 able to make that happen.

16 CHAIRPERSON MITTEN: Okay. I think what  
17 is -- you know, if we go ahead and approve this as it  
18 is, perhaps the response back to the consortium is  
19 that they should seek an amendment to the Southeast  
20 Federal Center overlay to allow that use, and that it  
21 could be considered with public comment and everything  
22 else.

23 CHAIRPERSON MITTEN: Okay.

24 COMMISSIONER MAY: I mean, it seems like  
25 if we are having enough debate, this much debate, here

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 and now, we probably -- there probably ought to be  
2 public comment on it.

3 CHAIRPERSON MITTEN: Okay. So at the  
4 moment you are no longer advocating for that to be  
5 changed?

6 COMMISSIONER MAY: Yes, I am no longer  
7 advocating.

8 CHAIRPERSON MITTEN: Okay. Does anybody  
9 have anything else?

10 (No response.)

11 COMMISSIONER PARSONS: I move for approval  
12 of Zoning Case Number 03-06.

13 VICE CHAIRPERSON HOOD: Second.

14 COMMISSIONER PARSONS: Oh, and I should  
15 say as we discussed it this evening, I think we  
16 amended it to include the referral to the National  
17 Capital Planning Commission.

18 CHAIRPERSON MITTEN: Okay. All right. We  
19 have a motion and a second to approve Case Number 03-  
20 06 with the amendment. Any further discussion? All  
21 those in favor, please say aye?

22 (A chorus of ayes.)

23 CHAIRPERSON MITTEN: There are none  
24 opposed. Ms. Schellin.

25 MS. SCHELLIN: Yes, the staff will record

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the vote 4-to-0-to-1 to approve Case Number 03-06,  
2 with the changes as discussed this evening.  
3 Commissioner Parsons moving, and Commissioner Hood  
4 seconding, and Commissioners May and Mitten in favor.  
5 Commissioner Hannaham not present, not voting.

6 CHAIRPERSON MITTEN: Thank you. We will  
7 take up the next two cases together, and if we have to  
8 vote on them, or if something comes up and we have to  
9 vote on them separately, then we can do that. But I  
10 think that we have a single order. Is that right

11 VICE CHAIRPERSON HOOD: Right.

12 CHAIRPERSON MITTEN: Cases Number 03-12,  
13 and 03-13, and this is the Map Amendment and PUD  
14 application for the Arthur Capper/Carrollsborg PUD.  
15 And we have a report from NCPC that is kind of  
16 embarrassing to have to read.

17 But they noticed something that we didn't  
18 notice, which is that they conclude that there is no  
19 adverse effect on the Federal interest, except for  
20 those senior housing building number 2, which places a  
21 blank wall above the ground floor along M Street,  
22 Southeast, which is an identified special street in  
23 the Preservation and Historic Features Element of the  
24 plan.

25 And when you pull out the elevations that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 is perfectly true. We have a recommendation from NCPC  
2 that the applicant be required to use a higher quality  
3 material, and consider incorporating windows above the  
4 ground floor, or varying the material to create a  
5 pattern to visually enhance the facade.

6 I think we need to give them the  
7 opportunity to do that, because for myself, I just  
8 overlooked that blank wall in reviewing the materials.

9 I don't know how anyone else feels about it.

10 MS. MONROE: I agree.

11 COMMISSIONER MAY: I agree. Embarrassed  
12 and agree.

13 CHAIRPERSON MITTEN: Yes, I think the  
14 architects among us should be particularly embarrassed  
15 about that.

16 COMMISSIONER MAY: Thank you very much.

17 CHAIRPERSON MITTEN: Let's see. There is  
18 also a recommendation that we require -- this is  
19 something that we could just incorporate into the  
20 language of the order, because it won't kick in until  
21 the second stage, but the landscaping along M Street  
22 and New Jersey Avenue, that it be consistent with the  
23 streetscape improvements.

24 I think these must be improvement  
25 standards developed by the Department of Public Works,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 and the Department of the Navy, and approved by the  
2 National Capital Planning Commission on July 1st,  
3 1999. Are those streetscapes standard, Mr. Parsons?  
4 Do you know? Is that what -- do you remember that  
5 one?

6 COMMISSIONER PARSONS: Are you saying are  
7 streetscapes standard?

8 CHAIRPERSON MITTEN: No, do you recall --  
9 are there sets for streetscape improvements that NCPC  
10 had approved?

11 COMMISSIONER PARSONS: I certainly recall  
12 them along M Street, but I am not sure other than  
13 that.

14 CHAIRPERSON MITTEN: Well, okay. Maybe we  
15 can sort that out in a little bit better detail for  
16 inclusion in the order if everyone agrees, because we  
17 are going to need this additional submission regarding  
18 the housing building two.

19 There are a couple of other issues. One  
20 is if you look in the order on page 4, Finding of Fact  
21 Number 15, there is a calculation for the hearing fee  
22 that is articulated in Finding of Fact Number 15.

23 And then when we go to Finding of Fact  
24 Number 17, and it says that the Commission is  
25 basically waiving the fees for the entire project, 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

1 I don't recall voting on that.

2 I recall the discussion that we wanted to  
3 see a breakdown and that we would determine whether or  
4 not we would wave any or all of the fees associated  
5 with the project at a later time. I think that later  
6 time has finally arrived.

7 So we need to decide that, and then there  
8 is also an issue because of the timing of the -- when  
9 the consolidated PUD would go forward, which would be  
10 -- I believe it is a year-and-a-half if I remember  
11 correctly.

12 Oh, on page 42, Condition Number 27, this  
13 is regarding the second stage approval. This would be  
14 the second stage approval. If there is to be more  
15 than one second stage application, or actually I  
16 should just go to the beginning.

17 "The second stage approval may be  
18 requested in one or more applications. If there is to  
19 be only one second stage application that application  
20 shall be filed within 18 months."

21 I think what we want to avoid is a  
22 situation where the consolidated PUD would not have  
23 vested before approving the second stage application,  
24 because then you could have only part of the whole  
25 project going forward.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           And then it wouldn't be a coordinated  
2 whole. So I think we can add a condition that would -  
3 - or we can add some language that would ensure that  
4 that wouldn't occur. So to the issue of the hearing  
5 fees, what are your thoughts?

6           COMMISSIONER PARSONS: Could you stick  
7 with Number 27 for a moment?

8           CHAIRPERSON MITTEN: Sure.

9           COMMISSIONER PARSONS: Do we have in these  
10 -- and I just noticed this, and it is probably right  
11 ahead of it, but the time as to when this expires?

12          CHAIRPERSON MITTEN: Right, that is in the  
13 preceding one. That is in G, 24-G. That is the  
14 typical timing.

15          COMMISSIONER PARSONS: Yes. So would that  
16 mean if there is to be more than one second stage --  
17 and that is their decision and not ours.

18          CHAIRPERSON MITTEN: Right.

19          COMMISSIONER PARSONS: They have got to  
20 file a first, second stage, application within 18  
21 months.

22          CHAIRPERSON MITTEN: Yes.

23          COMMISSIONER PARSONS: Would that mean  
24 that they would have to file the next stage within 2  
25 years? It would, wouldn't it, within another 6

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 months?

2 CHAIRPERSON MITTEN: No, because actually  
3 the G, 24-G, applies to the consolidated PUD.

4 COMMISSIONER PARSONS: Oh, so there is no  
5 limit on the time that they would have to complete  
6 this project the way it is written?

7 CHAIRPERSON MITTEN: Yes, I think that is  
8 right.

9 COMMISSIONER PARSONS: I think we ought to  
10 worry a little about that, huh?

11 CHAIRPERSON MITTEN: Yes.

12 COMMISSIONER PARSONS: Because you are  
13 right. I mean, here we go. The market isn't right,  
14 and I will be back, and if you don't have a checkpoint  
15 for them to come back, the won't come back.

16 CHAIRPERSON MITTEN: Actually, just read  
17 until the end, the end of that. It says that  
18 application, meaning if there is going to be multiple  
19 second stage, shall include a phasing plan for the  
20 remaining applications. So I guess that is when we  
21 would pick it up and put them on a schedule.

22 COMMISSIONER PARSONS: But in no case  
23 shall it extend beyond --

24 CHAIRPERSON MITTEN: Yes? I can't hear  
25 you.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER PARSONS: -- 4 years.

2 CHAIRPERSON MITTEN: Okay. Four years of  
3 the effective date of this order.

4 COMMISSIONER PARSONS: Yes.

5 CHAIRPERSON MITTEN: Do we have agreement  
6 on that?

7 COMMISSIONER PARSONS: I only push this  
8 because we are talking about building a whole new  
9 community, and we don't islands of office buildings  
10 waiting for the market.

11 CHAIRPERSON MITTEN: Okay. Back to the  
12 hearing fees. Does anyone have a proposal?

13 COMMISSIONER MAY: Going back to Item  
14 Number 15, where they show the breakdown. I guess I  
15 am driven to look at that because I don't feel that at  
16 this point that the hearing fee should be waived  
17 entirely.

18 Clearly, there are -- you know, the  
19 economics of this entire project is very complicated,  
20 and it is all tied together, and without having  
21 sufficient profit involved for some of the developers,  
22 that there wouldn't be the leverage needed to gain all  
23 of the public housing that is being built here.

24 But nonetheless there is definitely a  
25 profit being made here. This is not entirely a public

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 housing redevelopment, and so therefore a waiver of  
2 all fees I think is going a bit overboard.

3 So therefore returning to Item Number 15,  
4 where we see a breakdown of the \$127,100, split 54  
5 residential portion, and \$77,100 for the non-  
6 residential portion, I would propose that we charge  
7 the hearing fee for the non-residential portion.

8 So that is about the only thing that we  
9 have to work with as a split. Otherwise, it is kind  
10 of -- we would have to get into a whole lot of  
11 calculations.

12 CHAIRPERSON MITTEN: Okay. I would  
13 support that.

14 VICE CHAIRPERSON HOOD: I would agree to.

15 CHAIRPERSON MITTEN: All right. So 17  
16 will be modified, and we will charge the hearing fee  
17 of \$77,100. In order to -- yes, go ahead.

18 MR. BASTIDA: It might be best to have a  
19 vote on the fee, on the waiving of the fee to make it  
20 definite.

21 CHAIRPERSON MITTEN: All right. But won't  
22 it be part of -- it will just be part of the order  
23 when we write it.

24 MR. BASTIDA: That is correct, but in that  
25 way the --

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON MITTEN: Would it make you  
2 more comfortable?

3 MR. BASTIDA: Yes.

4 CHAIRPERSON MITTEN: Okay.

5 MR. BASTIDA: And I also would like to add  
6 that the additions to the order will not take place  
7 until that filing fee or hearing fees is paid.

8 CHAIRPERSON MITTEN: Okay. Mr. May, would  
9 you like to do the honors on that score.

10 COMMISSIONER MAY: Okay. I move that the  
11 filing fee for the entire PUD project be set at  
12 \$77,100, which is based on the non-residential portion  
13 of the project, and thereby waiving \$50,000 of the  
14 filing fee, which represents the residential portion.

15 CHAIRPERSON MITTEN: Second. Any  
16 discussion? All those in favor, say aye.

17 (A chorus of ayes.)

18 CHAIRPERSON MITTEN: None opposed. Ms.  
19 Schellin.

20 MS. SCHELLIN: Yes, the staff will record  
21 the vote as 4-to-0-to-1 for the hearing fee to be set  
22 at the amount of \$77,100 in Case Number 03-12 and 03-  
23 13. Commissioner May moving, and Commissioner Mitten  
24 seconding, and Commissioners Hood and Parsons in  
25 favor, and Commissioner Hannaham not present, no

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 voting.

2 CHAIRPERSON MITTEN: Thank you.

3 MR. BASTIDA: Thank you, Ma'am Chairman.

4 CHAIRPERSON MITTEN: I think what we  
5 should do at this point is we can vote on -- and let  
6 me just make sure that I have the right one -- 03-12  
7 is the first stage for everything; is that correct?

8 MR. BASTIDA: That is correct.

9 CHAIRPERSON MITTEN: And then 13 is the  
10 second  
11 -- the portion that is the consolidated? Okay. So we  
12 can -- well, the issue of the additional submission  
13 only relates to 03-13.

14 MR. BASTIDA: It appears that way.

15 CHAIRPERSON MITTEN: Okay.

16 VICE CHAIRPERSON HOOD: Madam Chairman, I  
17 need some clarification. The first stage, that  
18 pertains to the acquisition of the homes, I believe;  
19 am I correct, the first stage?

20 CHAIRPERSON MITTEN: Yes, they are --

21 VICE CHAIRPERSON HOOD: This is  
22 encompassing the acquisition of -- I forget how many  
23 homes there was.

24 CHAIRPERSON MITTEN: That's right.

25 VICE CHAIRPERSON HOOD: Let me just say

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 this, and let me say this for the record. I am very  
2 disappointed in the response for something that I  
3 asked for at the hearing from the Housing Authority.  
4 And while I know that they have submitted something,  
5 but they know specifically what I asked for, because I  
6 know that they looked at the transcript, and I have  
7 never received it.

8 And here we are now getting ready to take  
9 final action, and so I am very disappointed as what I  
10 have asked for was not provided, and what I asked for  
11 was basically how they were dealing with those people  
12 who they were taking or acquiring their homes.

13 And I am still debating on that, but  
14 anyway I am just very displeased with the response  
15 that we got. It is almost like we were ignored, and  
16 what I asked for didn't even matter. So I just wanted  
17 to put that on the record.

18 CHAIRPERSON MITTEN: Thank you, Mr. Hood.  
19 Are there any other issues before we --

20 COMMISSIONER PARSONS: I'm sorry, but just  
21 a point of clarification. I am on page 9, which is  
22 Finding Number 32, and it is detailed, but I think we  
23 ought to be accurate. This is the issue over this  
24 Reservation 17A, which the Park Service has no  
25 objections as long as its process is taken.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           But Reservation 17A is larger than Square  
2       739, and where it says at the end of the first line  
3       that also known as, I suggest that we put in which  
4       includes a portion of Reservation 17A, because that is  
5       the fact.

6           CHAIRPERSON MITTEN:   Okay.

7           COMMISSIONER PARSONS:   And it makes no  
8       difference on our decision at all.  It is just to make  
9       sure that everybody realizes that it is not -- it  
10      isn't Reservation -- I mean, it isn't Square 739.  It  
11      is a portion.

12          CHAIRPERSON MITTEN:   You mean it is not  
13      the entirety of Reservation 17A?

14          COMMISSIONER PARSONS:   Correct, and 739  
15      isn't Reservation 17A.

16          CHAIRPERSON MITTEN:   Correct.  Right.

17          COMMISSIONER PARSONS:   Both things I hope  
18      are clarified by this.

19          CHAIRPERSON MITTEN:   Okay.

20          MR. BASTIDA:   Madam Chairman, I misguided  
21      you,  The Council evaluated PUVs 03-13, and the two  
22      stage PUV.

23          CHAIRPERSON MITTEN:   You said it right.  
24      That's what I got out of what you said.

25          MR. BASTIDA:   Okay.  Sorry.  I just got

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 confused with the 13 and the 12, Madam Chairman.

2 CHAIRPERSON MITTEN: Okay. The 12 is the  
3 first stage, and the 13 is the consolidated.

4 MR. BASTIDA: The consolidated. Thank  
5 you.

6 CHAIRPERSON MITTEN: Okay. Thank you.

7 MR. BASTIDA: I was double-checking.

8 CHAIRPERSON MITTEN: Okay. All right.  
9 Then I would move for approval of Case Number 03-12.  
10 Of course, the order is consolidated and so it  
11 probably doesn't change anything.

12 The order will be issued when the order is  
13 issued, but it will save us perhaps a little  
14 discussion on the back end. But I would move for  
15 approval of 03-12. Is there a second?

16 COMMISSIONER PARSONS: Second.

17 CHAIRPERSON MITTEN: I was getting worried  
18 there. Okay. Any further discussion?

19 COMMISSIONER MAY: Well, hold on, Madam  
20 Chair. I'm sorry, but I guess I wasn't thinking in  
21 terms of considering these issues, the stage one  
22 versus the consolidated. And I do have a number of  
23 questions about the order that I would like to go  
24 into, and maybe we should do that before the vote.

25 CHAIRPERSON MITTEN: All right.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   COMMISSIONER MAY: The big question I had  
2 was the contiguity question. Is that something that  
3 we are going to address, or we should address now?

4                   CHAIRPERSON MITTEN: We can address that  
5 now.

6                   COMMISSIONER MAY: Okay. It seems to me  
7 that if the Van Ness School has been included in the  
8 first stage, which I believe that it has based on what  
9 we read in Finding Number 2, I think. Then that would  
10 render the contiguity argument that we have in Finding  
11 13 somewhat irrelevant.

12                  CHAIRPERSON MITTEN: Yes.

13                  COMMISSIONER MAY: So I mean my feeling on  
14 this is that we really don't have a contiguity issue  
15 anymore because that is in there.

16                  CHAIRPERSON MITTEN: I think that's right.

17                  COMMISSIONER MAY: Okay. All right.

18                  CHAIRPERSON MITTEN: So Finding of Fact  
19 Number 13 probably just needs to come out.

20                  COMMISSIONER MAY: Right. Okay. That is  
21 the big thing. And then I would also note that on  
22 Finding 36 with regard to -- again with regard to the  
23 Van Ness School, that the school site, the last  
24 sentence states that the school site is included in  
25 the PUD, and the Superintendent of Schools has

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 indicated that it is intended to keep the current  
2 school facility in operation.

3 The letter that we have doesn't actually  
4 indicate that they intend to keep the current school  
5 facility in operation or not. It simply says that we  
6 are not seeking control of the school, and whether or  
7 not they keep it in operation I think is almost  
8 irrelevant here.

9 As far as we are concerned, it is simply  
10 part of the PUD and should be incorporated in the  
11 planning.

12 CHAIRPERSON MITTEN: So would you just  
13 like to delete that last half of the sentence?

14 COMMISSIONER MAY: Yes, exactly, and  
15 delete that last half of the sentence. Okay. On  
16 Finding Number 50, Item B, Urban Design and  
17 Architecture. I would agree that this is a high  
18 quality urban design. I would not agree that the  
19 buildings as a rule are what I would consider superior  
20 architectural quality.

21 CHAIRPERSON MITTEN: Okay.

22 COMMISSIONER MAY: I think it is  
23 sufficient quality, and I wouldn't call it superior  
24 architectural quality. I don't consider that a  
25 particular benefit of this project.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           Some of the buildings are a big project,  
2 and some of the buildings I really find average.

3           CHAIRPERSON MITTEN:     So how about the  
4 architects for the project have designed a collection  
5 of mixed use buildings of --

6           COMMISSIONER MAY:     A mixed collection of  
7 mixed used buildings, and delete the "of are superior  
8 architectural quality."

9           CHAIRPERSON MITTEN:     Okay.

10          COMMISSIONER MAY:     And there are other --

11          CHAIRPERSON MITTEN:     Well, we can pick up  
12 some of these changes in the editing, too.

13          COMMISSIONER MAY:     Right. I think that's  
14 what is appropriate. I want to set the right tone for  
15 this.

16          CHAIRPERSON MITTEN:     Yes.

17          COMMISSIONER MAY:     That the design is high  
18 quality and the architectural design is sufficient. I  
19 think the references to Capital Hill as a model for  
20 this need to be worded carefully, because it does not  
21 really -- it is not the same housing pattern or the  
22 same density pattern.

23                   It can be considered comparable in certain  
24 ways, but it should not, and that shows up in Item --

25          CHAIRPERSON MITTEN:     That is in 50-B also.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER MAY: Under G -- excuse me,  
2 H-4, 53-H4. And I have a question. I thought all the  
3 decks were going to be six feet deep? It shows here  
4 that they are 4 or 6. Did I misunderstand that?

5 CHAIRPERSON MITTEN: Where are you now?

6 COMMISSIONER MAY: I'm sorry, I moved on  
7 to page 24, Item D on that page. I have no idea which  
8 finding that is. Okay, 58-D.

9 CHAIRPERSON MITTEN: I would have to go  
10 back and look. I know what you are saying. I  
11 remember that there was a -- that they made a  
12 modification to what they were proposing, and I just  
13 don't -- I didn't focus on that. We can check that  
14 out.

15 COMMISSIONER MAY: We can check the record  
16 and find out what that was.

17 CHAIRPERSON MITTEN: Yes.

18 COMMISSIONER MAY: Similarly on the next  
19 page, Item J -- no, I'm sorry. It wasn't J. Where  
20 was it? Oh, it was J, and 14 foot ceilings. I  
21 thought that there were -- it says that the Commission  
22 finds that there is no requirement in the Zoning  
23 Regulations for a 14 foot ceiling height for ground  
24 floor retail.

25 My memory on this particular issue is a

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 bit uncertain. Was there not a standard relatively  
2 high ceiling height proffered with this PUD or not? I  
3 mean, it is saying here that we are saying that it is  
4 not required. So they are going to come in with 8  
5 foot ceilings on the retail spaces.

6 CHAIRPERSON MITTEN: Well, they are  
7 correct that there -- well, let's see.

8 COMMISSIONER MAY: I just don't recall  
9 what they -- I mean, my recollection was that we had  
10 settled in, and it was like a 14 foot ceiling, or a 12  
11 foot ceiling, or something like that.

12 CHAIRPERSON MITTEN: Let me just ask the  
13 Office of Planning. When we did the Capital Gateway  
14 Overlay and we did the design standards for M Street,  
15 I thought we had a height requirement on the retail  
16 there. Am I mis-remembering that?

17 MS. STEINGASSER: No, Madam Chair. We did  
18 have in the Capital Gate Overlay, we did recommend a  
19 12 foot ceiling at that time. We have since consulted  
20 with several retail experts and market experts who  
21 have recommended a 14 foot high ceiling. But the  
22 Capital Gateway does have a minimum of 12.

23 CHAIRPERSON MITTEN: Okay. What adverse  
24 condition would we be mitigating by having a 14 foot  
25 ceiling?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. STEINGASSER: It is my understanding -  
2 - and we are conducting a study to confirm this and  
3 prepare possible text amendment, that the greater  
4 height of the retail core allow for storage and  
5 flexibility of merchandising, whether it is just pure  
6 storage, the way they display their goods, but it does  
7 allow for the higher quality retail goods.

8 CHAIRPERSON MITTEN: So requiring a 14  
9 foot ceiling actually ensures that you have more  
10 flexibility in the type of retailer that you can  
11 attract to the space?

12 MS. STEINGASSER: Yes, Ma'am, that would  
13 be correct.

14 CHAIRPERSON MITTEN: Okay. I think that  
15 it is possible for us to make the requirement, to  
16 impose the requirement because it would be mitigating  
17 and potential adverse condition if the ceiling heights  
18 were lower, in terms of ensuring that the retail  
19 component is marketable, or broadly marketable.  
20 So I guess your point in part is what do we want?

21 COMMISSIONER MAY: Right. I was just --  
22 it seemed that what was written here did not capture  
23 what I thought we had been discussing, or maybe we  
24 didn't discuss it explicitly enough, but I thought  
25 that we were heading for 14 foot ceilings, and I think

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that is a good thing. I don't see that in this order.

2 CHAIRPERSON MITTEN: What is the consensus  
3 regarding the ceiling heights on the retail? Is  
4 there? Mr. May is in favor of 14 foot ceilings.

5 COMMISSIONER PARSONS: The only  
6 requirement in the District of Columbia for 14 foot  
7 ceilings on are on first floor retail as I understand  
8 it.

9 COMMISSIONER MAY: This is the only  
10 requirement?

11 COMMISSIONER PARSONS: This would be the  
12 only project required to do that, because the normal  
13 regulations say 12. Do I understand this correctly?

14 CHAIRPERSON MITTEN: That in and of itself  
15 was new as I recall. When we did it in Capital  
16 Gateway that was new.

17 MS. STEINGASSER: That was new, and that  
18 was prior to us having consulted with -- well, we have  
19 consulted with Street Smart as you may recall from the  
20 Waterside PUD, where we also requested, I think, 14  
21 foot ceilings in that PUD along the 4th Street  
22 extension.

23 COMMISSIONER PARSONS: Oh, we did?

24 MS. STEINGASSER: Yes, sir.

25 COMMISSIONER PARSONS: I didn't remember

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that. It did include that?

2 MS. STEINGASSER: I believe so. I am  
3 stretching my memory, but I believe that was -- Street  
4 Smart was the group that recommended the 14 foot  
5 ceiling to us, and that was their project.

6 CHAIRPERSON MITTEN: I think the idea is  
7 that this -- that there is the merit of the notion of  
8 setting some minimum, and then the minimum is  
9 something that has been evolving as OP has become more  
10 educated on the subject.

11 COMMISSIONER PARSONS: I wasn't paying  
12 attention. I thought this would be our first time to  
13 address that. So I would agree with 14.

14 VICE CHAIRPERSON HOOD: Yes, 14.

15 CHAIRPERSON MITTEN: Okay. So, 14, and so  
16 J -- whatever that one is. 58-J on page 25 will be  
17 modified to reflect that. Mr. May, anything else?

18 COMMISSIONER MAY: Yes. I have a couple  
19 of more. Finding 79 on page 31, the Zoning Commission  
20 finds that the project is unique in its scope, and  
21 calls for one for one replacement of all District  
22 Public Housing Units within the PUD boundaries,  
23 thereby creating potential for all current residents  
24 to return to the new community.

25 I think we could find it that it is unique

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 in terms of the one for one replacement, although  
2 technically they are not all within the PUD  
3 boundaries. I thin we discovered that last time  
4 around.

5 CHAIRPERSON MITTEN: That's true.

6 COMMISSIONER MAY: So maybe we can take  
7 that phrase out. But also thereby creating potential  
8 for all current residents to return to their  
9 community. I think that it is wildly unrealistic to  
10 expect that all of the residents could possibly  
11 return, and I think to put it in here is just -- it  
12 would be silly on later reading, and I think we can  
13 just delete that phrase.

14 CHAIRPERSON MITTEN: Okay.

15 COMMISSIONER MAY: And leave it at that.

16 CHAIRPERSON MITTEN: So, just a period  
17 there. Okay.

18 COMMISSIONER MAY: Let's keep our findings  
19 to what we can find. And then the last thing is --  
20 and maybe I just didn't understand this well enough,  
21 but Finding Number 89 on page 34, where we -- this  
22 goes to the height.

23 We did limit the height on Square 882 to  
24 90 feet did we not?

25 CHAIRPERSON MITTEN: Yes, we did.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER MAY: Okay. Does that show  
2 up later? It does show up later doesn't it? There we  
3 go. It is under 8-B in the conditions. So, never  
4 mind. I think it is covered. Okay.

5 CHAIRPERSON MITTEN: Right.

6 COMMISSIONER MAY: All right. That's it  
7 for me.

8 CHAIRPERSON MITTEN: Okay. And just so  
9 that everyone knows, we have some consensus on the  
10 issues that you preferred to make a variety of  
11 changes, but the order -- we won't really be voting on  
12 the final order until we take the vote on 03-13 since  
13 it is a consolidated order.

14 So if anything else occurs to anybody, we  
15 can accommodate that when we take the vote on 03-13.  
16 So we have a motion and a second to -- oh, Mr.  
17 Parsons.

18 COMMISSIONER PARSONS: I'm sorry, but  
19 maybe I was not paying attention on our Conditions,  
20 Number 15, and we need to change that to 14 feet,  
21 because it currently says 11.8, and I just wanted to  
22 make sure that it was beyond the findings.

23 CHAIRPERSON MITTEN: Yes.

24 COMMISSIONER PARSONS: And are we going to  
25 accommodate the Planning Commission in this? You

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 mentioned their points, and quizzed me about standards  
2 of streetscape.

3 CHAIRPERSON MITTEN: I think we can --

4 COMMISSIONER PARSONS: In that there are  
5 standards in place, I know that they are along M  
6 Street, and they are with VDOT. And they must be  
7 along New Jersey Avenue and I was not paying that much  
8 attention. So I think that is valid.

9 CHAIRPERSON MITTEN: Sure, and that could  
10 be incorporated into that, because that would be for  
11 the second stage when it kicks in.

12 COMMISSIONER PARSONS: Correct, and then  
13 the issue of the blank wall needs to be taken care of.

14 CHAIRPERSON MITTEN: Yes, that needs to be  
15 -- that's why we can't vote on the 03-13.

16 COMMISSIONER PARSONS: Right. Okay.

17 CHAIRPERSON MITTEN: So we have a motion  
18 and a second on 03-12 to approve with the changes as  
19 proposed by various and sundry people for which we  
20 reached consensus. All those in favor, please say  
21 aye.

22 (A chorus of ayes.)

23 CHAIRPERSON MITTEN: There are none  
24 opposed. Mrs. Schellin.

25 MS. SCHELLIN: Yes. The staff will record

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the vote 4-to-0-to-1 to approve Case Number 03-12 with  
2 changes as discussed. Commissioner Mitten moving, and  
3 Commissioner Parsons seconding, and Commissioners Hood  
4 and May in favor. Commissioner Hannaham not present,  
5 not voting.

6 CHAIRPERSON MITTEN: Thank you. On 03-13,  
7 I think that Mr. Bastida, rather than trying to work  
8 out a date with the applicant now, if we could just --  
9 you know, when they make their submission, we could  
10 since we have a number of hearings coming up, just set  
11 a special public meeting prior to one of our hearings,  
12 and take the final action then on 03-13, and not hold  
13 things up there.

14 MR. BASTIDA: Okay. Ma'am Chairman, I  
15 will work ont hat tomorrow morning.

16 CHAIRPERSON MITTEN: Thank you.

17 VICE CHAIRPERSON HOOD: Why are we not  
18 dealing with 03-13 this evening?

19 CHAIRPERSON MITTEN: Because we are going  
20 to get a submission about that blank wall that the PUD  
21 called out for. The next case is 03-04, which is  
22 Belmont Partners.

23 We have a proposed order and I think that  
24 there is just a few things that we probably need to  
25 call out. The order itself doesn't address the impact

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 on the surrounding area, and on the operation of city  
2 services and facilities as they must be found to not  
3 be unacceptable and must instead be found to be either  
4 favorable and capable of being mitigated or acceptable  
5 given the quality of public benefits in the project.

6 And I think that we also need to address  
7 the requirements of 2403.10; the project may qualify  
8 for approval by being particularly strong in only one  
9 or a few of the categories in 2403.9, but must be  
10 acceptable in all proffered categories and superior in  
11 many.

12 I think that we discussed this to some  
13 extent when we took proposed action, but just for the  
14 sake of clarity. The applicant was requesting the  
15 following areas of relief; a waiver of the one acre  
16 minimum area requirement which in itself has its own  
17 requirement for a waiver.

18 An increase in the lot occupancy maximum  
19 from 60 to 63 percent. A decrease in the side yard  
20 setback on the east and west. A smaller loading birth  
21 than is otherwise required, and a special exception  
22 for the different heights of the roof structure and  
23 the roof setback.

24 And if you will remember, we actually got  
25 a pretty good improvement on the appearance of the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 roof structure, and the introduction of the roof  
2 terrace garden or whatever.

3 And the benefits include that this  
4 applicant is including four affordable housing units  
5 that are not otherwise required. That the design  
6 response to the adjacent scale and appearance of  
7 buildings.

8 That there will be no adverse impacts  
9 regarding an increase in traffic, as well as the fact  
10 that there has been a significant amount of parking  
11 proffered to be included, the excess of which will not  
12 be used by the residents of the project, and made  
13 available to the greater community.

14 The applicant has proffered a first source  
15 agreement, and I guess it is a first source agreement,  
16 and that they have made, they will make donations of  
17 cash services and equipment to Garnett Patterson  
18 Middle School, and the Metropolitan Police, and Boys  
19 and Girls Club, and that there is significant  
20 improvement to the open space and landscaping, as well  
21 as the roof garden that I mentioned.

22 So I think in light of what has been  
23 proffered, I don't think that we received any evidence  
24 in the record that there would be any detrimental  
25 impact on city services and that -- and so the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 concerns that we are required to address in 2403.3  
2 have been addressed, and that in the categories  
3 proffered that the project is acceptable, if not  
4 superior.

5 Does anyone have anything to add or a  
6 difference of opinion on those?

7 COMMISSIONER PARSONS: No.

8 CHAIRPERSON MITTEN: Then there is one  
9 final thing that we need to reconcile, unless other  
10 people have comments on the order, and that is the  
11 number of parking spaces. There is an inconsistency  
12 in the conditions.

13 The first in Number 4 is that the proposed  
14 PUD will include a minimum number of parking spaces at  
15 the rate of 1.5 parking spaces per dwelling unit, and  
16 then later in Condition Number 9, the applicant is  
17 reflecting or is requesting -- that's the word that I  
18 wanted -- to vary the number of parking spaces not to  
19 decrease below the minimum of one parking space per  
20 unit.

21 And I think there was a pretty significant  
22 amount of discussion and feedback from the immediate  
23 neighbors that they were very concerned about parking,  
24 and that the applicant sort of went to elaborate  
25 lengths to talk about the manner in which the parking

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 would be made available to the surrounding community.

2 So I think that I would not want to grant  
3 the flexibility that they are asking for in Condition  
4 Number 9, Point Number 2.

5 COMMISSIONER MAY: I agree with that.

6 CHAIRPERSON MITTEN: Anyone else have any  
7 other things that they would like to point out, and  
8 again we can pick up some of the smaller items on  
9 editing.

10 VICE CHAIRPERSON HOOD: So you are  
11 recommending that we take out 9.2?

12 CHAIRPERSON MITTEN: Yes.

13 VICE CHAIRPERSON HOOD: Okay. I made a  
14 notion, Ma'am Chair. Are we finished?

15 CHAIRPERSON MITTEN: Yes, I think so.

16 VICE CHAIRPERSON HOOD: I make a motion to  
17 approve Zoning Commission Case 03-04, with the  
18 necessary corrections as noted, or changes as noted.

19 CHAIRPERSON MITTEN: Second.

20 MR. BASTIDA: Madam Chairman, before you  
21 call for the vote, I want to say that NCPC provided a  
22 report on this case, and that (inaudible) and approval  
23 of this PUD. Thank you.

24 CHAIRPERSON MITTEN: Thank you. Any  
25 further discussion? All those in favor, please say

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 aye.

2 (A chorus of ayes.)

3 CHAIRPERSON MITTEN: There are none  
4 opposed. Ms. Schellin.

5 MS. SCHELLIN: Yes, the staff will record  
6 the vote 4-to-0-to-1 to approve Case Number 03-04,  
7 with changes as discussed. Commissioner Hood moving,  
8 and Commissioner Mitten seconding, and Commissioners  
9 May and Parsons in favor. Commissioner Hannaham not  
10 present, not voting.

11 CHAIRPERSON MITTEN: Thank you. Finally,  
12 under Final Action, we have Case Number 03-28, and  
13 this is the text amendment that is to accommodate the  
14 construction of police facilities in various zones.  
15 Are there any issues with the order? Going once,  
16 going twice. Okay. Then I would move for the  
17 approval of Order Number 02-28.

18 VICE CHAIRPERSON HOOD: I second.

19 CHAIRPERSON MITTEN: Mr. Bastida.

20 MR. BASTIDA: I would like to put for the  
21 record that the National Capital Planning Commission  
22 has reviewed this project and this rule making, and  
23 has determined that it will not have a negative impact  
24 on the firm or establishment. Thank you.

25 CHAIRPERSON MITTEN: Thank you. All those

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 in favor, please say aye.

2 (A chorus of ayes.)

3 COMMISSIONER PARSONS: I am not voting  
4 because I did not participate in the case.

5 CHAIRPERSON MITTEN: Thank you, Mr.  
6 Parsons. Ms. Schellin.

7 MS. SCHELLIN: The staff will record the  
8 vote as 3-to-0-to-2, Commissioner Mitten moving, and  
9 Commissioner Hood seconding, and Commissioner May in  
10 favor to approve Case Number 02-28, Commissioner  
11 Hannaham not present, not voting, and Commissioner  
12 Parsons not voting, and having not participated.

13 CHAIRPERSON MITTEN: Thank you. The next  
14 item is that we have a piece of correspondence from  
15 the representatives of the owner of a portion of  
16 Square 37, which you will recall was the genesis for  
17 our journey down the high density residential retail  
18 overlay path.

19 And they are now requesting that we set a  
20 date for the hearing, and I think it is perfectly  
21 reasonable. I think what is typical is that a  
22 prehearing statement is provided, and then the hearing  
23 date is set after that is provided. Is that correct,  
24 Mr. Bastida?

25 MR. BASTIDA: Correct, Madam Chairman. I

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 believe that I would have to review the record and  
2 perhaps the prehearing statement is correct or not,  
3 but I would have to look at that, because you have  
4 dismissed the case of 133, and I have to in fact check  
5 the prehearing statement that was filed at that time  
6 is still valid.

7 CHAIRPERSON MITTEN: Okay. All right.

8 MR. BASTIDA: And I have been working with  
9 the applicant to provide me also with a notice of  
10 hearing, and so we can expedite this hearing as soon  
11 as possible.

12 CHAIRPERSON MITTEN: All right. And I  
13 just want to clarify something, and this may require a  
14 vote, or I think just for the sake of clarity, my  
15 recollection was that we set down three different  
16 zoning categories, but one of them would have been  
17 subject to the HDRR overlay. CR-C2C, and those were  
18 the categories that the applicant had requested in  
19 their original petition, and then we had added R-5-E,  
20 subject to the HDRR overlay.

21 And I just want to make it clear that R-5-  
22 E is retained as one of the alternatives, only now  
23 without the HDRR overlay, as modifying it. Do we have  
24 a consensus about that, or -- yes?

25 COMMISSIONER PARSONS: Yes.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON MITTEN: So we have consensus  
2 about that, and so must make sure that is the way that  
3 it gets advertised, Mr. Bastida.

4 MR. BASTIDA: Thank you, Madam Chairman.

5 CHAIRPERSON MITTEN: All right. And then  
6 we can go back I guess quickly to the Office of  
7 Planning Status Report.

8 MS. STEINGASSER: I will be very brief.  
9 There is not a whole lot here that you have not seen  
10 before. This spring we hope to be bringing forward  
11 some of the implementation of zoning actions for some  
12 of the strategic action plans the Neighborhood  
13 Planning Division has been working on.

14 That will be H-3 Georgia Avenue, and  
15 hopefully Takoma, and Takoma will be kind of wrapping  
16 up that small strategic area plan. Other than that,  
17 we are still waiting on comments for Wisconsin Avenue  
18 for the two PUDs to come back, and we are still  
19 waiting to hear from the applicant regarding the I  
20 Street PUD. They are working with the neighborhood  
21 results and outstanding issues to do with the church.

22 CHAIRPERSON MITTEN: Okay. I just wanted  
23 to call to your attention, Ms. Steingasser, that the  
24 last item on the status report overall, the cases to  
25 be assigned as we have been working through these

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 municipal uses, I know that the Fire Department is  
2 going to become a relevant issue that they have a text  
3 amendment in the -- you know, within the next year.

4 MS. STEINGASSER: Okay.

5 CHAIRPERSON MITTEN: So if you could move  
6 that up on your priority list that would be helpful.  
7 Any questions for Ms. Steingasser?

8 CHAIRPERSON MITTEN: Okay. Well, Mr.  
9 Bastida is gone, and so I can't ask him if we have any  
10 other business, but --

11 MS. SCHELLIN: There is nothing else.

12 CHAIRPERSON MITTEN: There is nothing  
13 else? Okay. Anything else that anyone would like to  
14 bring to our attention? If not, then this meeting is  
15 adjourned.

16 (Whereupon, at 9:19 p.m., the meeting was  
17 concluded.)

18  
19  
20  
21  
22  
23  
24

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701