

# **Advisory Neighborhood Commission 1C Adams Morgan**

**Minutes of November 2, 2005**

A regularly scheduled meeting of Advisory Neighborhood Commission 1C was held on Wednesday, Nov. 2, 2005 at Mary's Center at 2355 Ontario Rd., NW. Alan Roth, chairman, called the meeting to order at 7:08 pm. Approximately 35 members of the public were in attendance.

In attendance were Alan Roth (1C01), Jon Canty (1C02), Bryan Weaver (1C03), Mindy Moretti (1C04), Andy Miscuk (1C05), Graham King (1C06), and Lynn Taylor (1C08).

## **TREASURER'S REPORT**

Commissioner Canty, treasurer, announced that the ANC has a balance of \$74,293.46 with one outstanding grant check for Mary's Center and that in FY05 the ANC distributed \$4,600 in grants.

## **CONSENT AGENDA**

The following items were approved by unanimous consent:

- \$15.86 reimbursement to Commissioner Roth for additional blueprints of constructions plans for building permit at 1825 Vernon Street, NW, necessary for the filing of a BZA appeal as approved by the ANC last month.
- Motion of Commissioner Moretti to make a minor technical amendment to the Walter Pierce Park resolution offered and approved at the October meeting. The technical amendment removed the language that identified the U.S. Department of Agriculture as funding the soil erosion project in Walter Pierce Park.

## **PUBLIC COMMENT**

Lisa Duperier announced that the next Adams Morgan MainStreet wine tasting will be on Dec. 5 at L'Enfant.

## **COMMISSIONER ANNOUNCEMENTS**

- Commissioner Miscuk announced that he would be guest bartending at Saki on Nov. 3 to raise funds for a nonprofit that provides holiday dinners to senior citizens.
- Commissioner Moretti announced that Friends of Walter Pierce Park will hold their fall clean up and annual membership meeting on Saturday, Nov. 12 from 9:30 a.m. to 2 p.m.

## **SPECIAL ELECTION**

Commissioner Miscuk made a motion that ANC 1C accept the proposed rules for the special election (attached at the end of these Minutes) for the Dec. 7, 2005 special election for the Commissioner in SMD 1C07. The motion was seconded, discussed and approved by voice vote.

## COMMITTEE REPORTS

### A. Planning, Zoning and Transportation

Commissioner Taylor provided a report from the PZT Committee and reported that the development at 1654 Euclid Street, NW ([www.lot33.com](http://www.lot33.com)) is a matter-of-right project, but that developers were speaking with the ANC.

Commissioner Taylor offered a resolution concerning the ANC's position on the zoning variances applied for by Harris Teeter. The resolution was seconded, discussed and approved by roll call vote:

YEA: Roth, Canty, Weaver, King, Taylor

NAY: Moretti, Miscuk

#### ***Resolution on Zoning Variances Requested for Harris Teeter and Office Uses at the Citadel Building***

*WHEREAS, Douglas Development, Inc. has filed an application with the Board of Zoning Adjustment (BZA) (BZA Application # 17395), pursuant to 11 DCMR 3103.2, for a variance from the rear yard requirements under section 774, a variance from the nonconforming structure requirements under subsection 2001.1, and a variance from the requirement to provide a loading berth that is 55 feet deep under subsections 2201.1 and 2201.6, to allow the establishment of a mixed use project including a grocery store and general offices in the RC/C-2-B District within a building known in the Adams Morgan community as "The Citadel" at the intersection of Kalorama Road and 17th Street, NW (Square 2572, Lot 36), and*

*WHEREAS, earlier this year Faison Associates (for Douglas Development, Inc.) filed an application with the Zoning Commission (ZC Case No. 04-30) to establish a Planned Unit Development (PUD) within a building known in the Adams Morgan community as "The Citadel" designed primarily for the operation of a full-service supermarket by Harris Teeter (HT), and also including office space, an area for one additional retail or service business, and parking and loading facilities for those uses, and*

*WHEREAS, Advisory Neighborhood Commission 1C (ANC 1C) engaged in extensive discussions and negotiations with the applicants, HT, immediate neighbors, and the community at large to assess the impacts of the proposed PUD, capture the project's benefits for the community, and mitigate adverse impacts where practicable, and*

*WHEREAS, in response to such discussions and negotiations, the applicants and HT proposed entering into a Memorandum of Understanding (MOU), the most recent draft of which was dated April 28, 2005, for the purpose of gaining the support of ANC 1C and the community for their PUD application, and*

*WHEREAS, after months of negotiations the application for a Planned Unit Development (PUD) was withdrawn, and*

*WHEREAS, the BZA hearing on this variance application is scheduled for Tuesday, November 29, 2005,*

*WHEREAS, the applicants have revised the original PUD plans to significantly reduce the square footage of office space and make other adjustments in the original plans,*

*NOW, THEREFORE, BE IT RESOLVED, that ANC 1C supports and recommends Board of Zoning Adjustment approval of the applicants' variance requests, as modified or conditioned by the terms of the abandoned PUD MOU proposal germane to the variances requested:*

*1) HT will refuse deliveries from trucks exceeding 40 feet in length.*

- 2) *The applicant and HT will propose to DDOT that the loading zone be limited to vehicles not exceeding 40 feet in length.*
- 3) *HT will limit the number of truck deliveries to approximately 20 on weekdays, approximately 10 on Saturdays, and newspapers only on Sunday.*
- 4) *HT will accept deliveries solely within the 17<sup>th</sup> Street loading dock or its side door, never through Kalorama Road pedestrian or vehicular entrances.*
- 5) *Hours for 17<sup>th</sup> street loading zone will be limited to Mon-Fri 7am to 4pm, Saturday 7am to 3pm.*
- 6) *HT will establish a formal truck management plan, for grocer deliveries as well as waste removal, as the grocery store approaches full operation.*
- 7) *Hours for the overhead door to operate at the loading dock will be limited to Mon-Fri 8am to 3pm, Saturday 8am to 2pm, and the overhead loading dock doors shall be equipped with the sound-proofing and sound-dampening technologies contemplated by the Applicant's PUD plans.*
- 8) *Overhead door will be closed except when vehicles enter or exit, and HT will, at minimum, provide exterior sign denoting such.*
- 9) *Hours for the loading dock side door will be accessible only Mon-Fri 7am to 4pm, Saturday 8am to 2pm, Sunday for newspapers only.*
- 10) *There will be a dock manager on duty whenever exterior unloading is underway or vehicles are moving in or out of the dock area as well as from 6:30am to 9:00am schooldays.*
- 11) *Deliveries in the loading dock side door will be limited to hand carts only, goods not to exceed 42" wide.*
- 12) *The Applicant and HT will propose to DDOT changes of regulations to local streets that could channel or restrict routes of delivery vehicles or hours they could be present within limits that loading dock and loading zones provide, emergencies excepted, including the changes to be advocated by ANC IC as described in the final paragraph of this Resolution.*
- 13) *Trash compactor in the loading dock will operate weekdays only, 9:00am to 3:00pm.*
- 14) *Plastics and recyclables will be stored in loading area or within emptied trailers to return to North Carolina and HT's recycling center.*
- 15) *HT will implement an extermination plan that will include a contract for full preventative services and aggressive monitoring to ensure no problem areas; and*

*BE IT FURTHER RESOLVED, that if any of Conditions #1 through #5 are not imposed by the BZA, then ANC IC opposes the loading berth variance as requested by the Applicant and calls upon the BZA to grant no variance for a loading berth of less than 46 feet in depth; and*

*BE IT FURTHER RESOLVED, that in addition to the preceding list of conditions, which the BZA is hereby requested to impose on the grant of the requested loading berth variance, ANC IC's support for that variance is further conditioned on a requirement to be imposed by the BZA that all delivery trucks capable of being unloaded in an available loading berth shall be directed into that loading berth by HT personnel rather than being unloaded from the street; and*

*BE IT FURTHER RESOLVED, that all conditions above imposed on HT shall also be imposed in the BZA order on HT's successors and assigns and on any future grocery store tenant;*

*BE IT FURTHER RESOLVED, that ANC 1C reiterates its support for, and will continue to insist upon, the following changes to be implemented by the District Department of Transportation (DDOT) prior to the opening of the HT:*

*1) Adoption of one-way street Option 1B or 2B as described in its consultant's undated report entitled "One-Way Street System: Citadel Site," provided to the ANC by DDOT on April 27, 2005.*

*2) Installation of a traffic signal at the intersection of 16th St. and Kalorama Rd., NW.*

Commissioner Taylor offered a resolution proposing the down-zoning of the areas along 18<sup>th</sup> Street and Columbia Road. The motion was seconded. Commissioner Miscuk recused himself and left the room. A brief discussion of the resolution ensued. Commissioner Roth moved to postpone further consideration of the issue until the December meeting. The motion was seconded, discussed and approved by voice vote.

### **B. MPD Report**

Lt. Gottert gave a crime update for PSA 303 and noted that crime is up 8 percent, mostly with theft from auto. He reported that a robbery arrest was made of four juveniles at Adams Mill and Harvard that may close several cases. He noted that juvenile crimes are spread throughout all of the Third District. Lt. Gottert also reported that while overall robberies are down in 303, by about 6 percent from last year, there has been a spike in the last couple of months.

### **C. Public Services Committee**

Commissioner King moved that ANC 1C support a grant for the \$600 to the Kalorama Citizens Association for their consultant to conduct three meetings about the Washington Heights historical survey. The motion was seconded, discussed and approved by voice vote.

Commissioner King announced that the next meeting of the Public Services Committee will be on November 28 at 7 p.m. at the Kalorama Rec. Center.

### **D. ABC & Public Safety Committee**

Commissioner Weaver moved that ANC 1C accept a combined ANC 1C and Kalorama Citizens Association Voluntary Agreement with ANZU on their conversion from a restaurant license to a tavern license. A motion was made to make a minor technical amendment to the hours of the VA. The motion was accepted by unanimous consent. The original motion, as amended, was discussed and approved by roll call vote:

YEA: Roth, Canty, Weaver, Miscuk, King, Taylor  
NAY: Moretti

Commissioner Miscuk moved that ANC 1C re-protest the conversion of restaurant license to a tavern license for Rendezvous. The motion was seconded, discussed and approved by voice vote.

Commissioner Weaver announced that the next meeting of the ABC and Public Safety Committee will be on Wednesday, Nov. 9, 2005 at 7 p.m. at the Kalorama Rec. Center.

## **NEW BUSINESS**

Kit Kosakowski with the First Church of Christ Scientist provided the Commission and the public with an overview of the church's plans to redevelop their property for continued church and community use as well as for new condos. No action was taken by the Commission at this meeting on the proposed project.

Commissioner King moved that the December 13<sup>th</sup> Public Forum be on tenants' rights. The motion was seconded, discussed and approved by voice vote.

Commissioner King offered a resolution calling for a ban on mobile billboards in the District of Columbia. The motion was seconded and discussed. Commissioner Weaver moved to postpone a vote on the resolution until the December meeting. The motion was seconded, discussed and approved by voice vote.

Commissioner Miscuk moved that ANC 1C approve the public space applications for the sidewalk cafés at Columbia Station and Heaven & Hell. Commissioner Weaver asked for a division of the question. The Commission approved the Columbia Station application by voice vote. A roll call vote was taken on Heaven & Hell. The motion for Heaven & Hell failed:

YEA: Cauty, Miscuk

NAY: Roth, Weaver, Moretti, King, Taylor

Commissioner Misuck offered a resolution regarding the District of Columbia's plans in the event of a zombie attack. The resolution was seconded and discussed. Commissioner Roth moved to table the resolution. The motion was seconded and approved by voice vote.

## **ADJOURNMENT**

Commissioner Moretti moved for adjournment at 11:00 p.m. The motion was seconded, discussed and approved by voice vote.

**RULES FOR SINGLE MEMBER DISTRICT 1C07  
SPECIAL ELECTION – DEC. 7, 2005**

1. The special election to fill the vacancy in Single Member District 1C07 will take place from 7:15 pm to 9:15 pm on December 7, 2005, at Mary's Center for Maternal and Child Health, 2355 Ontario Road, NW, during the next regularly scheduled meeting of Advisory Neighborhood Commission 1C, in a room adjacent to the ANC's regular meeting room. No person will be permitted to sign in or cast a ballot prior to 7:15 pm. Any person standing on line to vote at 9:15 pm will be permitted to sign in and vote. No person will be permitted to get in line after 9:15 pm.
2. A lottery to determine the ballot order of the three candidates will be held on Wednesday, November 9, 2005, at 6:45 pm at the Kalorama Recreation Center. See section 1617.3 of the election regulations (below) for the procedures to be used.
3. During the special election, no electioneering will be permitted inside the Mary's Center building or on the entrance walkway leading into the building.
4. Section 8(d)(6)(E) of the Advisory Neighborhood Commission Act provides that in a special election to fill an ANC vacancy, "[a]ll registered qualified electors shall display their voter identification card or, alternatively, be listed as a voter in the affected single-member district on the voter registration list provided by the Board." No person who does not meet one of these two requirements will be permitted to deposit a ballot in the ballot box. A person without a voter identification card shall be asked to show some form of identification with the name and address matching that on the voter registration list (e.g., driver's license, passport, utility bill, bank statement, paycheck or pay stub, apartment lease, etc.). Each qualified voter shall be required to sign the voter registration list next to his or her name and address; a voter with a voter identification card whose name does not appear on the voter registration list will be asked to write his or her name, address, voter ID number (from the card), and signature in the blank area on the last sheet of the list.
5. A ballot box will be placed in the room where the election is to be held, in a location where it can be observed by all present. Each candidate will be permitted one observer (the candidate *or* a designee of the candidate) to observe the voting process, but the observer will not be permitted to interrupt or interfere with the voting, and will not be permitted to communicate directly or indirectly with any voter. The candidates or their respective observers will be permitted to inspect the ballot box before voting begins to ensure that it is empty.
6. The ANC Chairperson and Secretary will attempt to obtain impartial volunteers to staff the polls. In the event impartial volunteers are not available from off the Commission, the Chairperson may designate impartial Commissioners to staff the polls. The Chairperson shall appoint one of the volunteers or Commissioners as the election manager. All ballots must be placed in the ballot box or returned to the election manager, who will make note of the returned/unused ballot and the reasons for it. The election manager will also have authority to replace spoiled or mismarked ballots. There will be no absentee voting.

7. Section 8(d)(6)(E) of the Advisory Neighborhood Commission Act provides that in a special election to fill an ANC vacancy, “[t]he ballots shall be counted by at least 2 impartial vote counters. The results shall be read aloud by the Chairperson of the [ANC], or alternatively, by such Commissioners as the Chairperson shall designate.” Each candidate will be permitted one observer (the candidate *or* a designee) to observe the count, but the observer will not be permitted to interrupt or interfere with the count. The ANC will make every effort to obtain the services of at least 2 impartial counters who are not ANC 1C Commissioners. In the event two impartial volunteers are not available from off the Commission, the Chairperson may designate one or more impartial Commissioners to count the ballots.

8. The election manager will report to the Commission any unresolved issues not addressed by these rules. The Commission will take action to resolve these issues before the end of the ANC meeting. The Chairperson will then announce the results. The candidate with the highest number of votes shall be declared the winner. In the event of a tie vote, the tied candidates or their respective designees will draw lots to determine the winner.

9. Section 8(d)(6)(F) of the Advisory Neighborhood Commission Act provides, “After a vacancy has been filled pursuant to this subsection [i.e., the procedures above], the affected Advisory Neighborhood Commission shall transmit to the Board a resolution signed by 2 officers of the Advisory Neighborhood Commission that states the winner of the Advisory Neighborhood Commission single-member district election and requests that the Board declare the vacancy filled.” However, the newly elected Commissioner must be sworn in by a Councilmember prior to assuming his or her official duties.

10. In the event of any incident or occurrence that threatens the conduct or fairness of the election or the vote count, the election manager will be authorized to suspend the balloting or counting until directed to resume it by the Commission, and the Chairperson shall be authorized to summon the assistance of MPD to deal with any such incident or occurrence.

*Title 3 DCMR § 1617.3 provides as follows: “The lottery to determine ballot position in a primary or special election shall be conducted in the following manner:*

*“(a) The name of each candidate in a contest shall be typed or written on a slip of paper and placed in a container;*

*“(b) Each candidate, or his or her designated representative, shall draw from the container one slip of paper;*

*“(c) In the absence of a candidate, or his or her designated representative, the Board shall assign a registered voter or one of its employees to draw for the absent candidate;*

*“(d) The lottery for ballot position shall be conducted such that the names on the slips of paper shall be hidden from the view of the individual drawing; and*

*“(e) The candidate whose name is pulled first from the container shall have his or her name appear first on the ballot; the candidate whose name is pulled second shall have his or her name placed second on the ballot; this order shall continue until all candidate ballot positions have been determined.”*