

GOVERNMENT

THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR MEETING

+ + + + +

MONDAY

APRIL 9, 2007

+ + + + +

The Regular Meeting of the District of Columbia Zoning Commission convened in Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 6:30 p.m., Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chairperson
ANTHONY HOOD	Vice Chairperson
GREGORY JEFFRIES	Commissioner
JOHN PARSONS	Commissioner (NPS)
MICHAEL G. TURNBULL	Commissioner (AOC)

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN	Secretary
DONNA HANOUSEK	Zoning Specialist
ESTHER BUSHMAN	General Counsel

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WASHINGTON, D.C. 20005-3701

(202) 234-4433

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Board of Zoning Adjustment
District of Columbia
CASE NO.18239
EXHIBIT NO.18B28

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER
JOEL LAWSON
STEVE COCHRAN
TRAVIS PARKER

The transcript constitutes the minutes
from the Regular meeting held on April 9,
2007.

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

2 6:38 p.m.

3 CHAIRPERSON MITTEN: Good evening,
4 ladies and gentlemen.

5 This is a public meeting of the
6 Zoning Commission of the District of Columbia
7 for Monday, March 9th, 2007. My name is Carol
8 Mitten and joining me this evening are Vice
9 Chairman Anthony Hood and Commissioners Mike
10 Turnbull, John Parsons and Greg Jeffries.

11 Copies of our meeting agenda are
12 available to you and they are in the wall bin
13 by the door.

14 I'd just like to remind folks that
15 we don't take any public testimony at our
16 meetings unless someone has specifically
17 requested to come forward.

18 I'd like to advise you that the
19 proceeding is being recorded by the Court
20 Reporter and is also being webcast live so we
21 ask you to refrain from making any disruptive
22 noises in the hearing room and we also ask you

1 Mrs. Schellin.

2 SECRETARY SCHELLIN: Staff would
3 record the vote four to zero to one to approve
4 final action on Zoning Commission Case No. 04-
5 24A.

6 Commissioner Hood moving,
7 Commissioner Jeffries seconding.
8 Commissioners Mitten and Parsons in favor.
9 Commissioner Turnbull not voting, having not
10 participated.

11 CHAIRPERSON MITTEN: Thank you.

12 Now, there's just one or there's
13 two pieces of correspondence to address. I
14 can't seem to put my hand on it, but I
15 remember what it is.

16 The first one is some
17 correspondence that ANC-1C had submitted to
18 the Commission asking us to -- they were
19 trying to appeal a decision of the Public
20 Space Committee to the Zoning Commission. And
21 as much fun as that might be, we don't have
22 the authority for that. So, I just want to

1 make that clear. Although they should be able
2 to appeal somewhere I hope.

3 And then the second is an
4 extension of our hearing from the other night
5 in Case No. 07-03. And, if you remember, the
6 folks from ANC-6A requested that we take
7 emergency action on the text amendment for --
8 I'm sorry. Did I get the case wrong.

9 Oh, I'm sorry, I'm totally --
10 okay. Then I'm on the other one. It's still
11 ANC-6A. I'll get to this one in a second.

12 Let me just stick with what I
13 started to say.

14 The request, it might not have
15 been a piece of correspondence, but it was a
16 request from ANC-6A to take emergency action
17 in Case No. 07-03 regarding the text amendment
18 to Section 401.1. And I said that we would
19 take that up tonight.

20 And one of the things is that the
21 origin and we talked a little about this
22 during the hearing.

1 The origin of that case was the
2 Appletree appeal of their building permit.
3 And since that decision and the order is not
4 yet written, although maybe Mr. Bergstein can
5 give me an update on the issuance -- timing of
6 the issuance?

7 MR. BERGSTEIN: I would imagine --
8 well, I'll have it to the Office of Zoning
9 this week. And then it's a matter of how long
10 it takes the Board to review the order.

11 CHAIRPERSON MITTEN: Okay.

12 MR. BERGSTEIN: I would imagine
13 two to three weeks.

14 CHAIRPERSON MITTEN: Okay. Thank
15 you.

16 Since I participated in that case,
17 I had intended to bring for sua sponte review
18 by the Commission one of the issues in the
19 case. And it ironically is not 401.1. But it
20 was the third item.

21 There were three bases on which
22 the Zoning Administrator made his decision.

1 And the third issue had related to parking.
2 And it turned on specifically the number of
3 existing parking spaces which is why I was
4 asking Mr. Parker earlier about guidance for
5 the historic -- the case regarding parking in
6 historic structures. And the BZA disagreed
7 with the Zoning Administrator. And I felt
8 that the issue in the case went far beyond --
9 for the Zoning Administrator went far beyond
10 that particular case because then in the
11 occasions which there will be occasions
12 because of these exemptions for historic
13 structures and for other reasons that the
14 Zoning Administrator has to opine about the
15 number of parking spaces. And I just thought
16 that the BZA was off base there.

17 So, I will be bringing that once
18 the order is written to the Commission and for
19 your consideration to take up a sua sponte
20 review of it. And when we do so, I will ask
21 to stay the order, the effect of the BZA order
22 which will then encompass the issues related

1 to 401.1 which would then move the need for
2 emergency action.

3 So, I just wanted to say all that.
4 It doesn't require any action on our part at
5 this point.

6 And then --

7 COMMISSIONER JEFFRIES: It's a
8 preview. Right?

9 CHAIRPERSON MITTEN: That was a
10 preview.

11 And then the final item under
12 correspondence is that we -- no, this is --
13 wait a minute. I lost it again. Okay.

14 Is a request for -- this is a
15 different request from ANC-6A for an emergency
16 text amendment in the H Street Northeast
17 Commercial Zone. And the -- I'm just going to
18 read this.

19 The mechanism that our Commission,
20 meaning their ANC, proffers to achieve its
21 goal which is to preserve the integrity and
22 goals of the H Street Overlay is an

1 instruction to the director of the Office of
2 Zoning to suspend and refuse acceptance of
3 applications for more permissive zoning for
4 any property which is governed by the H Street
5 Overlay.

6 It says, this emergency rule-
7 making is justified by the immediate danger
8 posed by the application for rezoning and a
9 PUD in Zoning Commission Case No. 05-37.

10 So, anyway they're basically
11 saying, don't consider these on a case-by-case
12 basis. Just have this blanket, I guess,
13 moratorium on accepting applications.

14 My concern is, they get to weigh
15 in on each application as it comes in. So, I
16 don't understand why we would instruct the
17 director of OZ not to take anymore
18 applications. I think the mechanism for them
19 addressing the Commission -- addressing their
20 concerns to the Commission is in a hearing as
21 these cases come forward.

22 COMMISSIONER PARSONS: How do we

1 get the authority to do something?

2 CHAIRPERSON MITTEN: I don't even
3 know. I mean, I don't even know.

4 COMMISSIONER PARSONS: It sounds
5 illegal to me.

6 CHAIRPERSON MITTEN: See everybody
7 thinks we can do everything.

8 COMMISSIONER PARSONS: Yes. But
9 why would you tell people they can't exercise
10 their property rights. Come on.

11 CHAIRPERSON MITTEN: Yes. I know.

12 COMMISSIONER PARSONS: I
13 understand their plight, but I don't think
14 that's the sledge hammer to use.

15 CHAIRPERSON MITTEN: Right. I
16 think we can just address these concerns on a
17 case-by-case basis and ANC-6A is a regular and
18 active participant before the Zoning
19 Commission and so we look forward to their
20 voicing their concerns as cases come before
21 us.

22 So, if there's nothing else for

1 the Commission tonight, I think we're ready to
2 adjourn.

3 Thank you.

4 (Whereupon, the above matter was
5 concluded at 8:51 p.m.)
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