

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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SPECIAL MEETING
1107th MEETING SESSION (13th OF 2000)

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MONDAY
NOVEMBER 27, 2000

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The Regular Meeting of the District of Columbia
Zoning Commission convened at 6:30 p.m. in the Office of Zoning
Hearing Room at 441 4th Street, Northwest, Washington, D.C.,
Anthony J. Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD	Chairperson
CAROL J. MITTEN	Vice Chairperson
HERBERT M. FRANKLIN	Commissioner
KWASI HOLMAN	Commissioner
JOHN G. PARSONS	Commissioner

OFFICE OF ZONING STAFF PRESENT:

Alberto Bastida,	Secretary, ZC
Gerald Forsburg,	Office of Zoning

OTHER AGENCY STAFF PRESENT:

Ellen McCarthy,	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:

Marie Sansone, Esq.

Preliminary Matters4

Final Action

 Z.C. Case No. 99-09TA6

 Z.C. Case No. 00-0412

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

(6:32 p.m.)

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3 MR. HOOD: Good evening, ladies and gentlemen.
4 This is a special meeting of the D.C. Zoning Commission for
5 Monday, November the 27th at 6:32 p.m.

6 Joining me this evening are Commissioners Mitten,
7 Vice Chairperson, Commissioner Holman, Commissioner Parsons, and
8 Commissioner Franklin.

9 Mr. Bastida, do we have any preliminary matters?
10 Before I go to you Mr. Bastida, I would just like to say we're not
11 going to deal with the Kennedy Warren Zoning Commission Case
12 Number 96-7C. I believe our final date to deal with that will be
13 our regular monthly meeting in December.

14 MR. BASTIDA: That's, Mr. Chairman, that's what I
15 was going to say that due to problems with the email, not all the
16 Commissioners got the revisions and the addressing day comments
17 received accordingly. Our schedule -- regular schedule meeting
18 will be on December the 11th, a Monday at 1:30, and it will be on
19 that agenda.

20 MR. HOOD: Okay, again, I want to apologize to all
21 those who were coming for that deliberation, and we will deal with
22 that at our December meeting.

23 Next, any preliminary matters, Mr. Bastida?

24 MR. BASTIDA: The staff has no other preliminary
25 matters, Mr. Chairman.

1 MR. HOOD: Okay. Final action, Mr. Bastida?

2 MR. BASTIDA: Yes, Zoning Commission Case 00-09TA,
3 which is a final rule making on the transfer of jurisdiction. The
4 Zoning Commission -- to the Zoning Commission of the Campus plan,
5 the Commission had received the proposed -- the draft order, which
6 addresses the point that were received from the consortium of
7 universities.

8 And if you would like, Corporation Counsel would be
9 glad to go through those points for you, if that's your wish.

10 MR. HOOD: Let me just say, Mr. Bastida, that we
11 had asked Corporation Counsel due to concerns that we had received
12 in our submittal to respond briefly to the issues that were raised
13 in the submittal. So, I would like for Ms. Sansone, if she
14 doesn't mind, to put that on the record for us. Thank you.

15 MS. SANSONE: Yes, Mr. Chairman. The Office of
16 Corporation Counsel has suggested some changes to address concerns
17 raised by the Consortium of Universities that possibly the
18 proposed amendments were affecting the substance of the
19 regulation.

20 And when we drafted the proposed rule making, we
21 certainly had no intent to effect any of the substantive
22 provisions, but only to try to clarify these regulation. And it
23 was clear to us that some of our efforts to clarify the regulation
24 really weren't helping very much.

25 So, one of the primary concerns was with the use of

1 the word, structure, in the regulations pertaining to
2 universities. And what we would propose that is in the final rule
3 making, all references to structures be stricken where they relate
4 to the colleges and university provisions only.

5 That would be Sections 210.1, 210.2, 210.4, 302.2,
6 322.2, 332.2, 352.2, the section heading at 35 -- 3035.4, 3035.5,
7 the table in 3104.4 and the text in 3104.5. The other places
8 where the use of structure would remain pertaining to the Board of
9 Zoning Adjustments review of certain other types of special
10 exception applications that have nothing to do with campus and
11 universities.

12 And we felt that it was appropriate to leave it in
13 those places, because it accurately describes what the Board of
14 Zoning Adjustment is doing and has the authority to do.

15 Another change -- another concern that the
16 Consortium raised was with the use of the word, periodically, in
17 210.4. And that related to the requirement of submitting an
18 application for approval of a campus plan or updating the campus
19 plan in conjunction with or prior to obtaining special exception
20 approval for a particular college or university use.

21 And what we would suggest is simply delete the
22 reference to periodically. That's requirement in the law in the
23 Court of Appeals decisions that they keep their campus plans up to
24 date, and that would more than cover that situation there.

25 Another issue came up that possibly we were

1 expanding the authority of the zoning agencies in Section 507, but
2 the existing text in 507.1 relating to the SP district, already
3 provides that special exception approval is required for college
4 and university hospitals, dormitories, fraternities, and sorority
5 houses that are located on the campus.

6 With that text, we've tried to reflect that in the
7 table, which is just a summary of the text. The table itself has
8 no independent legal status. It's the text that really controls
9 the requirements that have to be met, the specific requirements,
10 and then the conditions.

11 The specific conditions are specified in Section
12 507. So, we would recommend keeping the reference to SP districts
13 in the new table of special exceptions, that will reflect the
14 Zoning Commission's jurisdiction.

15 Also in that table, there is a reference to school
16 use that we believe should be stricken. That was simply carried
17 over from some of the existing text in the existing Board of
18 Zoning Adjustment table.

19 And by simply deleting out school use, I think that
20 will solve another issue the Consortium raised of a concern that
21 possibly the Zoning Commission was retaining private school
22 jurisdiction over private schools. Those would be staying with
23 the Board of Zoning Adjustment.

24 I guess the final concern the Consortium had was in
25 Chapter 9, the waterfront district, where there was some confusion

1 over why we were proposing the creation of a new section that
2 would give the Commission jurisdiction over the colleges and
3 universities.

4 And the reason this section was drafted this way
5 was the existing text in Chapter 9 combines private schools, trade
6 schools, colleges, and universities together. And in order to
7 transfer the jurisdiction for college and universities to the
8 Commission, as a drafting technique, it was simply easier just to
9 create a new section, and split out the college and university
10 portion.

11 So that, none of the text has changed there, none
12 of the substance. It just that now it will appear in its own
13 section, and will relate just to the Zoning Commission. And then
14 the Board of Zoning Adjustment provisions for private schools and
15 trade schools will stay in tact in a separate section.

16 So, there's no substantive changes at all occurring
17 in the waterfront district.

18 I think that pretty much addresses their concern
19 that transfer would apply to cases that have been -- where there's
20 an application filed, but the hearing hasn't commenced. And it
21 would be the intent -- I think there might also be some confusion
22 about what procedures would apply.

23 It would be these same -- the Commission will be
24 using the same procedures as the Board of Zoning Adjustment, the
25 same substantive requirements, and those -- I think they express

1 their concern possibly if the Commission started a hearing, and
2 then the Office of Planning came in with a new rule that maybe
3 there would be a switch mid-stream in the case. But I don't
4 believe there's any intent to do that, and certainly when that new
5 rule that deals with the new procedures and new requirements comes
6 into play, that rule will carry with it its own effective date and
7 transitional provisions.

8 And that would take care of -- I mean, that should
9 alleviate any concern that the Consortium might have about
10 universities getting caught mid-stream. So, it's not -- that
11 issue is not addressed in this rule, but it would certainly be a
12 topic in the new rule that's going to set out the new chapter and
13 new requirements.

14 MR. HOOD: Thank you, Ms. Sansone. Colleagues,
15 we've heard the report, and we have the report in front of us.
16 Any discussion?

17 MS. MITTEN: Well, I guess I'd just like to say
18 that I think that the changes that -- the additional changes that
19 have been proposed by the Office of the Corporation Counsel really
20 does accomplish what we intended and what has been recommend to us
21 by the Consortium, that all the language merely transfers
22 authority. So, I think we've gotten to that place now.

23 MR. FRANKLIN: I agree Mr. Chairman. So, I would
24 like to move the final adoption of the transfer of review
25 authority to the Zoning Commission on campus plans revised as

1 described by Assistant Corporation Counsel Sansone.

2 MR. HOOD: Thank you. Commissioner Franklin, do we
3 have a motion on the table -- is there a second? Okay, it's been
4 moved and properly second. All those in favor.

5 Any opposition, so ordered. Staff, would you
6 record the vote?

7 MR. BASTIDA: Yes, Mr. Chairman. The staff would
8 record the vote five to zero, with Mr. Franklin moving it, and Mr.
9 Parsons approving it. Ms. Mitten and Ms. Holman --

10 (Laughter.)

11 Mr. Holman and Mr. Hood voting on the affirmative.
12 I apologize, Mr. Holman. Thank you.

13 MR. HOOD: Okay. Thank you. Again, Ms. Sansone
14 and also to our staff, I think you did a very thorough job and job
15 well done.

16 Next, moving right along, our special meeting
17 agenda. Mr. Bastida, Zoning Commission Case Number 00-04.

18 MR. BASTIDA: Yes, Mr. Chairman. That began as an
19 editorial changes that it will not have required a final rule
20 making. The problem is working with the Office of the Registrar.

21 They wanted to put so many footnotes to all the things to call it
22 editorial, that we decided that -- the staff decided that we
23 really needed to do a rule making to avoid all those footnotes.

24 And you approved the proposed rule making on
25 October the 16th. The period for comments closed on November the

1 20th, and I would be glad to report that Corporation Counsel did
2 such a great job that we have no comments.

3 MR. HOOD: Okay. Again, colleagues, again we want
4 to thank Corp. Counsel and our staff. I know they worked on this
5 tirelessly. So, we appreciate all the hard work.

6 Colleagues, any comments, any questions?
7 Commissioner Franklin.

8 MR. FRANKLIN: Yes, I just wanted to reflect my
9 understanding, and I hope it's the understanding of the
10 Commission, that all of these changes are emendations or
11 clarifications that do not change the intent of the underlying
12 regulation.

13 And with that understanding, I would propose their
14 adoption, Mr. Chairman.

15 MR. HOOD: Okay. Moved. Moved and properly
16 second. All those in favor. Any oppositions, so ordered. Staff,
17 would you record the vote?

18 MR. BASTIDA: Yes, Mr. Chairman, the staff will
19 record the vote five to zero to approve. Mr. Franklin moving, and
20 Mr. Holman second it. Ms. Mitten voted in the affirmative. Mr.
21 Hood and Mr. Parsons also voted in the affirmative. Thank you.

22 MR. HOOD: Okay. That will conclude -- if
23 everything is in order, that will conclude our special meeting for
24 Monday, November the 27th. Thank you.

25 (Whereupon, the Zoning Commission Special Meeting

1 was concluded at 6:47 p.m.)

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