

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR MEETING

+ + + + +

MONDAY

JUNE 4, 2018

+ + + + +

The Regular Public Meeting of the District of Columbia Zoning Commission convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 6:30 p.m., Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairperson
- ROBERT MILLER, Vice Chairperson
- PETER G. MAY, Commissioner (NPS)
- MICHAEL G. TURNBULL, FAIA, Commissioner (AOC)

OFFICE OF ZONING STAFF PRESENT:

- DONNA HANOUSEK, Secretary

OFFICE OF PLANNING STAFF PRESENT:

- MATT JESICK
- JOEL LAWSON

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

- HILLARY LOVICK, ESQ.

DISTRICT DEPARTMENT OF TRANSPORTATION STAFF PRESENT:

AARON ZIMMERMAN

The transcript constitutes the minutes from the Regular Meeting held on June 4, 2018.

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

6:36 p.m.

CHAIRMAN HOOD: Good evening, ladies and gentlemen. This is the public hearing of the Zoning Commission for the District of Columbia. Today's date is June 4th, 2018.

My name is Anthony Hood. Joining me are Vice Chair Miller, Commissioner May and Commissioner Turnbull. We're also joined by the Office of Zoning staff Ms. Donna Hanousek as well as the Office of Attorney General Ms. Lovick, Office of Planning Staff Mr. Lawson and Mr. Jesick and the Office -- District Department of Transportation Mr. Zimmerman.

Okay. This proceeding is being recorded by a court reporter. It is also web cast live. Accordingly, we must ask you to refrain from any disruptive noises or actions in the hearing room including display of any signs or objects.

Notice of today's hearing was published in the *D.C. Register* and copies of that announcement are available to my left on the wall near the door.

The hearing will be conducted in accordance with provisions of 11-Z DCMR Chapter 4 as follows:

Preliminary matters of Applicant's case, report of the Office of Planning, report of other government

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1 agencies, report of Advisory Neighborhood Commission,  
2 organizations and persons in support, organizations and  
3 persons in opposition, rebuttal and closing by the Applicant.

4           The following time constraints will be maintained  
5 in this meeting: The Applicant has up to 60 minutes. Let's  
6 see, we have 25 minutes, but we have some preliminary issues  
7 that we need to deal with first. We'll deal with those  
8 prior. Organizations, five minutes. Individuals, three  
9 minutes.

10           All persons appearing wishing to testify before  
11 the Commission this evening at this hearing I ask to either  
12 register at the witness kiosk -- or ask to register at the  
13 witness kiosk my left and fill out the witness cards.

14           The decision of this Commission in this case must  
15 be based exclusively on the public record, and to avoid any  
16 appearance to the contrary the Commission requests that  
17 persons present not engage the members of the Commission in  
18 conversation during any recess or at any time.

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

21           Would all individuals wishing to testify please  
22 rise to take the oath?

23           Ms. Hanousek, would you please administer the  
24 oath?

25           (Whereupon, the witnesses were sworn.)

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1 MS. HANOUSEK: Thank you. Be seated.

2 CHAIRMAN HOOD: Okay. At this time the Commission  
3 will consider any preliminary matters. Does the staff have  
4 any preliminary matters?

5 MS. HANOUSEK: Yes, sir. There is a waiver  
6 request. The Applicant is requesting a waiver from the  
7 requirement to submit a supplemental TDM and parking study  
8 to DDoT within 45 days prior to submitting any further  
9 processing application.

10 Second, there's a request to modify Condition 13  
11 of ZC Order 12-01. This request appears in Exhibit 2, page  
12 15. The Applicant wants to modify the language of Condition  
13 13 of ZC Order 12-01. Thank you.

14 CHAIRMAN HOOD: Okay. Thank you.

15 Commissioners, I think these are two very  
16 important issues. Let's deal with the waiver request.

17 Colleagues, as you know, this is actually our  
18 second time dealing with this. I think another university  
19 did something that might have been similar. When we did ZR  
20 16 and we rewrote the regulations in the city we said certain  
21 things should happen before further processing. And that  
22 came as a mandate from folks who came down here and testified  
23 in front of this Commission.

24 Now in this case, as noted, this should have been  
25 -- something should have been to us within 45 to the TDMs.

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1 This was not dealt with because I guess DDoT informed the  
2 Applicant that it was not needed. So at least that's the way  
3 I understand it. But I'll say this and then I'll open it up  
4 for comment.

5           Before we do further processing we have -- we've  
6 said people need to be in compliance. And this waiver  
7 request, or any substantial change or any DDoT information  
8 should have been provided to us, I believe, 45 days in  
9 advance. It was not. We found out recently that DDoT is  
10 saying they don't need it. And I could very easily go over  
11 to Mr. Zimmerman and do it on the record, but we put things  
12 in place for a reason down here. And I think when you start  
13 holding Applicants and residents -- because the residents of  
14 the city want us to make sure that what we do down here is  
15 predictable.

16           So let me hear from others, but I have a problem  
17 with not even being notified of the requirement. Even if it  
18 was a little earlier -- a little less than 40 days, but our  
19 requirements say 45 days. Let me open it up. Any comments?

20           COMMISSIONER MAY: Yes, Mr. Chairman. Yes, I was  
21 particularly distressed to read that this waiver was being  
22 requested and the parking study -- the supplemental TDM and  
23 parking study hadn't been submitted as required. And it's  
24 been six years since the order was issued on this.

25           And as I recall parking was an issue at the very

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1 last minute because DDoT came in kind of late requesting  
2 substantial parking reductions. And we were not really very  
3 happy about receiving that feedback from DDoT so late in the  
4 process, but we were very concerned about parking and we  
5 thought it made sense that there be these -- that there be  
6 a pretty substantial TDM and that this requirement regarding  
7 the parking study would address those concerns that were  
8 raised by DDoT. So I mean, this was I think in some ways  
9 what made us comfortable with proceeding despite DDoT's  
10 concern that there be a much more substantial reduction in  
11 parking.

12           So to have this basically have been ignored for  
13 all this period -- and when you look at the rest of the  
14 application, I mean, there are a lot of things that were in  
15 there in the TDM measures and other -- I mean, there were  
16 three or four things beyond just the TDM stuff that should  
17 have been done at this point that have not been done. And  
18 that's in the application. I mean, I feel like much of the  
19 order was simply ignored.

20           And now, I mean, what's being done here is I think  
21 pretty straightforward, but I don't think it's right that we  
22 should simply say, oh, well, we didn't really mean that when  
23 we wrote the order. I think that we need to get this stuff  
24 and get the study. And the Applicant should have provided  
25 that and shouldn't have just trusted the advice of DDoT. I

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1 mean, they could have also sent a letter to us and asked the  
2 question rather than just getting the counsel of DDoT on this  
3 question. I'm just -- I was very, very disappointed, and  
4 that's an understatement, when I read that this was an issue.

5 CHAIRMAN HOOD: Any other comments? Vice Chair  
6 Miller?

7 VICE-CHAIR MILLER: Thank you, Mr. Chairman. I  
8 don't -- I personally don't really have a problem with the  
9 waiver. DDoT apparently did indicate that they would want  
10 to -- they could -- to the Applicant that they -- according  
11 to the Applicant's statement that they could deal with the  
12 issues that they need to deal with during the scoping process  
13 of this application.

14 And we did get a good report from DDoT which  
15 notes, as Commissioner May noted, that a lot of the TDM  
16 measures, some of the TDM measures had not been complied with  
17 that were in the previous order, including I think  
18 performance monitoring and -- so they would be conditions of  
19 this order if we ever get to that point in this modification,  
20 but I think the DDoT report lays out what conditions are  
21 necessary going forward at this point and I -- we should have  
22 gotten the waiver earlier than whenever we got it, which was  
23 -- was it yesterday or very recently, since it was a 45-day  
24 before this point here requirement.

25 But, so anyway, I personally don't have a problem,

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1 but I'll defer to my colleagues.

2 CHAIRMAN HOOD: Mr. Turnbull?

3 COMMISSIONER TURNBULL: Thank you, Mr. Chair. I  
4 agree with both the Chairman's comments and the Commission  
5 May's, but I also -- I'm also not ready to just quash this  
6 thing right away, even though I am a little bit upset, but  
7 I think we need to somehow include in what -- if there's --  
8 as the Vice Chair was talking about, we get to an order on  
9 this, it needs to be very explicitly. And I think that the  
10 Applicant has to really realize that these -- there's a  
11 legally binding document and that it needs to be followed.

12 And I'm tentative. I'm willing to grant this, but  
13 I think that I don't want to be setting a precedent in the  
14 future and I don't want -- and the Applicant's got to realize  
15 that this is not precedent setting and that we are going to  
16 hold their feet to the fire as we go forward.

17 CHAIRMAN HOOD: There's another issue, as Ms.  
18 Hanousek -- we can hold this in abeyance, but I can assure  
19 you that if we keep on -- to me that we need to take the rule  
20 out of play or we need to hold folks to it, because this is  
21 the second time. And I'm not taking it out on Catholic U.,  
22 because Catholic U., I think once we get over these few  
23 issues that we have, I think is fine.

24 But it's just the way that things are being  
25 ignored that we put in place. Then they're coming down and

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1 we say, oh, well, this is acceptable. Everybody says it was  
2 all right. No, no, we put stuff in play for a reason.

3 And the residents of the city, we need to start  
4 holding people to -- feet to the fire. That's why they don't  
5 take us serious now.

6 So anyway, Commissioner May?

7 COMMISSIONER MAY: Yes, I think it's worth going  
8 into the topic of what has not been done a little bit more  
9 deeply on the TDM. I mean, in the Applicant's initial  
10 statement the report on the requirements of the original  
11 order -- and it says the university shall implement the  
12 following TDM sustainability measures no later than one year  
13 from the effective date of this order. So that means it  
14 should have been done in 2013, and 6 out of 10 are not fully  
15 complete: install 200 new bike racks on campus, install the  
16 Capital Bikeshare station, reduce parking fees for carpool  
17 drivers, eliminate all 160 free faculty and staff permits,  
18 offer new carpool incentives, etcetera, work with Zipcar.

19 I mean, these are things that they're saying  
20 they're still doing or they're still working on. At least  
21 as far as my accounting of it. They didn't really do it sort  
22 of point by point, but we got kind of an essay form of what  
23 they haven't done.

24 I mean, really? I mean, five years ago they were  
25 short on -- or six years ago when we did the order we said

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1 200 new bike racks and now they're coming back six years  
2 later and they've gotten -- they've done 137 and they're  
3 promising to do the rest of them by the fall. I mean, bike  
4 racks. They're not that hard. I just -- I don't see how we  
5 can be taken seriously, to your point, Mr. Chairman, if we  
6 don't insist on universities living up to this.

7 I mean, they're -- frankly, Catholic is very  
8 fortunate in that they do not have -- they have a -- they  
9 seem to have a more peaceful relationship with the immediate  
10 neighbors than other universities in town, but if this were  
11 happening on the other side of town and we had all these  
12 areas where they were not in compliance with the order, the  
13 ANC and all of the neighbors would have been down here  
14 outraged that it hasn't been taken care of. And I think that  
15 we have an obligation to make sure that the university lives  
16 up to the order that they agreed to. I mean, we didn't  
17 invent the TDM measures. They agreed to these. So I'm --  
18 like I said, I'm -- the more I think about it the more upset  
19 I get.

20 CHAIRMAN HOOD: Commissioner May, to your point,  
21 it ain't always been a lovefest with the neighbors. I've  
22 been around when Mary Baird Currie was the ANC commissioner  
23 and Mr. Joseph Bowser were the -- was the chair of ANC 5A.  
24 They -- and some people might not remember those days, but  
25 I do. And things were not always a lovefest, but due to the

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1 relationship of people working together to deal with some of  
2 the issues that students were doing on 12th Street and some  
3 other things we've gotten to this point.

4           So I think the way to continue so we don't have  
5 some of the problems we have in some other areas is to make  
6 sure we hold feet to the fire. We have a regulation in place  
7 and it was not followed. And to me I can't get beyond that.

8           But there are some other issues that we need to  
9 deal with. I don't know if we need to decide this waiver  
10 request at this point because I think the -- as was mentioned  
11 from Ms. Hanousek, the request to modify Condition 13 -- I  
12 don't know if we would like to deal with this waiver request,  
13 but I think to me the request to modify Condition 13 will  
14 come into play with how we proceed this evening.

15           MS. LOVICK: Well, you need to decide on the  
16 waiver request first.

17           CHAIRMAN HOOD: First?

18           MS. LOVICK: Yes.

19           MS. RODDY: Chairman Hood, may I clarify with  
20 respect to the waiver of Condition No. 13?

21           CHAIRMAN HOOD: I think I -- do you want to talk  
22 about Condition 13?

23           MS. RODDY: Yes.

24           CHAIRMAN HOOD: Let us work through this and then  
25 at the end of it you can comment, because if it's a comment

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1 on what we asked for about the waiver request, about the non-  
2 compliance and what DDoT told you, that doesn't cut it for  
3 me. So just hold tight. Let me work through this.

4 Ms. Lovick, I'm trying to figure out -- because  
5 I want to get to 13 because I'm trying to go somewhere here.  
6 And if I have to decide on the waiver request before I get  
7 to 13, that's going to be a problem.

8 MS. LOVICK: Well, you have to either grant or  
9 deny the waiver request because you -- if you decide that  
10 you're going to deny the waiver, then you're essentially  
11 dismissing the case and you're requiring the Applicant to  
12 adhere to the requirement and resubmit the application. So  
13 there would be no reason for you to then discuss Condition  
14 13 if that's what you're going to do. So you've got to  
15 decide whether you're going to grant or deny it first, I  
16 think.

17 CHAIRMAN HOOD: Well, what I was thinking; and my  
18 other colleagues can chime in, is that we figure out how to  
19 deal with this notice issue. Let them get this information  
20 and let us get -- I could take it variably from Mr.  
21 Zimmerman, but to me Condition 13 is also an issue especially  
22 since the notice of Condition 13, the request is for the  
23 modification. The condition has not been noticed to the  
24 public.

25 So what I -- my thing is with that and all these

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1 other issues that are coming into play I was looking at --  
2 let's just straighten this record out. Get what you need  
3 from DDoT, work with DDoT, give us some submissions, post  
4 exhibits -- the conditions -- the request that you're doing  
5 for Condition 13 and let's come back another date.

6 Now, I mean, we could move forward, but if I move  
7 forward this evening my vote would be to deny the waiver  
8 request. And I'm not trying to throw it all out. That's  
9 why --

10 COMMISSIONER MAY: Right. I would agree. I mean,  
11 we could do something short of dismissing the case if we  
12 don't grant the waiver, right? We could simply postpone the  
13 hearing to a later date and ask that the Applicant submit the  
14 required information or submit any further information that  
15 comes from discussions with DDoT as well as doing the  
16 notification that they should do for any relief that's  
17 needed.

18 I mean, just there are more steps that need to be  
19 taken. And we can give them 30 days and come back and  
20 hopefully things are in better shape, right?

21 MS. LOVICK: Well, if you don't dismiss the case,  
22 I mean, essentially you're requiring them to do the TDM study  
23 and the parking study and wait 45 days to submit the further  
24 processing application if you don't grant the waiver. So I  
25 mean, I guess that's the issue as I see it.

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1 COMMISSIONER MAY: But we could require them to  
2 do the study, but reduce the 45 days, right?

3 MS. LOVICK: Yes, you could do that.

4 COMMISSIONER MAY: Right.

5 MS. LOVICK: You could do that. You could require  
6 them to do the study, reduce the time frame and then you  
7 could require them to modify the application to modify  
8 Condition 13. And you would then basically continue this  
9 hearing until after the notice and posting of the  
10 modification happened.

11 MS. RODDY: Commissioners, the report has been  
12 submitted.

13 CHAIRMAN HOOD: Let us finish what we're doing up  
14 here.

15 COMMISSIONER MAY: Which -- what -- I'm sorry, do  
16 -- could I just follow that?

17 CHAIRMAN HOOD: Sure.

18 COMMISSIONER MAY: What, the traffic study? I  
19 mean, the parking and sustainability study?

20 MS. RODDY: The Comprehensive Transportation  
21 Report has all that information in it. Condition --

22 COMMISSIONER MAY: I went through it. I didn't  
23 see it in there. I mean, it was just -- so it's just the 45  
24 days that was the issue?

25 MS. RODDY: Right. So we met with DDoT at least

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1 45 days before we were going to submit the application to  
2 talk through that condition and DDoT said, no, you know, can  
3 go through our normal scoping process and that's fine.

4 COMMISSIONER MAY: I know, you wrote that.

5 MS. RODDY: And so we went through the process,  
6 determined what was necessary. We provided the report  
7 timely.

8 COMMISSIONER MAY: You provided what DDoT asked  
9 you to provide as opposed to what --

10 MS. RODDY: Which would include the --

11 COMMISSIONER MAY: Which was what was supposed to  
12 be in the study?

13 MS. RODDY: No, it included the parking and  
14 analysis that was in -- it was in the CTR.

15 COMMISSIONER MAY: And see, I read through this  
16 -- the CTC. I didn't see what I thought what I was going to  
17 see from the study.

18 All right. Well, thank you very much for that.

19 CHAIRMAN HOOD: So maybe we just need a little bit  
20 -- so you're saying we have everything we need in front of  
21 us even though it wasn't timely?

22 MS. RODDY: The report was filed timely. It was  
23 just the meeting with DDoT. We didn't submit to DDoT 45  
24 days. We met with DDoT 45 days before we filed the  
25 application. And that's what Condition 13 requested. And

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1 so that's the waiver that we are seeking is that when we met  
2 with DDoT well before we filed, DDoT said that we could go  
3 through their scoping process rather than submit that report  
4 at that time.

5 And with respect to the community, we did file the  
6 notice of intent, so they were well aware. And we actually  
7 met with the ANC in November. So that was again well ahead  
8 of when we actually filed the application. So everyone has  
9 had notice of the application.

10 CHAIRMAN HOOD: And of the modification that  
11 you're requesting of Condition 13?

12 MS. RODDY: Right, the modification was simply  
13 that we not submit that report 45 days before we file --

14 CHAIRMAN HOOD: Right, so --

15 MS. RODDY: -- but it was submitted well before  
16 the hearing.

17 CHAIRMAN HOOD: -- you all are now asking for a  
18 modification to Condition 13 as well, correct?

19 MS. RODDY: Yes, we submitted -- we have  
20 negotiated with DDoT the TDM measures that you have before  
21 you, that language, and the university have agreed on all of  
22 the terms in that language. So we have agreed on the TDM.

23 CHAIRMAN HOOD: Was it in the notice? Has that  
24 been properly --

25 MS. RODDY: That's included --

1 (Simultaneous speaking.)

2 CHAIRMAN HOOD: -- noticed to the public? Has  
3 that been properly noticed?

4 MS. RODDY: Yes, we did the 45-day notice before  
5 we filed to the community.

6 CHAIRMAN HOOD: So the community knows about this  
7 modification to Condition No. 13?

8 MS. RODDY: We -- no, I'm sorry. We did not  
9 specifically discuss the No. 13. We discussed the project,  
10 but we did not discuss the waiver to getting DDoT that  
11 information.

12 CHAIRMAN HOOD: So we have a notice problem as  
13 well?

14 MS. RODDY: I don't know that we do.

15 CHAIRMAN HOOD: If you're asking us to a  
16 modification -- that's fine with the Applicant and DDoT.  
17 That's fine. But there's also a requirement that this  
18 Commission is obligated to do is make sure we have a notice  
19 requirement to the community.

20 MS. RODDY: And we satisfied the notice  
21 requirement. I mean, it's just like any negotiation you  
22 would have with any of the agencies. Like the rest of these  
23 TDM measure, they're negotiated up until the time of the  
24 hearing oftentimes. But we've met with the community per the  
25 order, Order 12-01. We met with them --

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1 CHAIRMAN HOOD: I think you must be -- we must be  
2 talking past each other, because I'm not understanding what  
3 you're saying versus what's being -- the notification  
4 requirement to the public.

5 MS. RODDY: There's a notification requirement  
6 that we give the community notice of our application 45 days  
7 before we file. We provided that notice. And more than  
8 that, we did a presentation to the ANC in November. And so  
9 that was maybe three months before we filed. So they have  
10 been well aware of this application.

11 CHAIRMAN HOOD: So you noticed to the public.  
12 It's in the notice.

13 Ms. Lovick or Ms. Hanousek, can you all help me?  
14 Is that in the notice that -- the modification to Condition  
15 13?

16 MS. LOVICK: Well, the public hearing notice has  
17 nothing in it with regard to the modification to Condition  
18 13. That's the issue that OAG is raising. That didn't  
19 happen. And so therefore if members of the community wanted  
20 to comment and testify on the proposed modification to  
21 Condition 13, they wouldn't have had notice of it and they  
22 wouldn't be able to have testified tonight at the hearing.

23 And with regard to the compliance with the  
24 condition, the condition, Condition 13 require that the  
25 report be done and submitted to DDoT 45 days prior to

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1 submitting a further processing application. That did not  
2 happen even if the Applicant did meet with DDoT 45 days  
3 prior.

4 MS. RODDY: And we submitted the waiver, that  
5 request in our initial filing. So that was a public record.  
6 I don't know the date that we filed, but it's been -- since  
7 January it's been in public record that we were requesting  
8 a waiver.

9 MS. LOVICK: But it's embedded on page 15 of the  
10 statement in support of the application. And so, I mean,  
11 it's -- I'm not saying it's not there, but I'm just saying  
12 that the average person wouldn't necessarily see that.

13 CHAIRMAN HOOD: Okay.

14 MS. LOVICK: It was not included in the public  
15 hearing notice.

16 CHAIRMAN HOOD: All right. I've -- colleagues,  
17 I've heard enough. I am inclined to -- and I don't know how  
18 to deal with this waiver request. I think this needs to be  
19 tightened up. There are some other issues as well. We can  
20 talk about those I believe, but these two main issues need  
21 to be tightened up. I'm willing to shorten the 45 days,  
22 which is the requirement, that whole -- whatever that issue  
23 is.

24 Because here's the problem: Even this discussion  
25 right here to me; they always say where there's smoke,

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1 there's fire, there could be a potential problems. And as  
2 you know, we've been under the gun quite a bit. So I want  
3 to make sure we do due diligence. I understand on this page  
4 we submitted that. There's too many moving parts. And as  
5 far as I'm concerned I would rather proceed with caution and  
6 make sure that we have covered every base that we need to  
7 cover properly.

8           So I think this whole case needs to be  
9 straightened out, tightened up. I'm willing to -- whatever  
10 days that's needed, I'm willing to waive the days. I hate  
11 to do that, but I'm willing to do that. And I'm willing for  
12 us to come back with these two things tightened up: the  
13 notice requirement, the submission about the TDM and parking  
14 studies, that issue being resolved, and anything else and  
15 come back and have a straightforward hearing where we don't  
16 have to plug in the pieces and put in -- the pieces to the  
17 puzzle.

18           So that's where I am. I'm willing to hear from  
19 others.

20           MS. RODDY: Chairman Hood, can I --

21           CHAIRMAN HOOD: Let me -- I wanted to hear from  
22 my colleagues. Ms. Roddy, you know that I like you a lot,  
23 but I want to hear from them first.

24           COMMISSIONER MAY: So, Mr. Chairman, I mean, it  
25 is a little confusing to understand exactly what was noticed

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1 to the public. I think I'm still concerned about the fact  
2 that the -- so much of the required TDM measures were not  
3 completed. And I'm not -- and the monitoring that was  
4 supposed to happen and was supposed to be reported to DDoT  
5 on an annual basis as far as I can tell was not happening  
6 either. And I mean, that's extremely close to the situation  
7 that we faced with another case.

8 I don't know. I mean, I see now where you're  
9 saying that the TDM portion is covered in the CTR. I for  
10 some reason glossed over that part when I reviewed it. But  
11 I don't feel like -- I mean, this is basically the same sort  
12 of information that's in the application. I'm not seeing  
13 where there's -- I mean, you're reporting on the things that  
14 have been done, but where's the actual parking study? I'm  
15 not seeing all the things that I think that I was expecting.

16 So I mean, I'm -- I don't know, I think I'm with  
17 you, Mr. Chairman. I'd rather give it some -- delay this  
18 case to some extent to allow for further notice and some  
19 further clarification on what's been done and to make sure  
20 that -- I mean, I'm still hung up on the fact that some many  
21 of the TDM requirements were not implemented and the  
22 reporting requirements were not implemented.

23 I mean, this is -- it was pretty clear what was  
24 supposed to be going on and there probably should have been  
25 new TDM measures implemented a couple of years ago because

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1 the application doesn't show any indication that the trip  
2 generation is on a downward trend or anything like that. So  
3 I mean, the sort of things that were supposed to be happening  
4 are not happening and the results are not demonstrating --  
5 I mean, it's not like, well, we forgot to do these things,  
6 but things got better anyway. No, things stayed the same.  
7 And they were supposed to be getting better.

8           So I don't know, it is a little confusing, but if  
9 the Chairman wants to postpone and take this up after there's  
10 some further notification and some further work on TDM, then  
11 I would be very supportive of that.

12           CHAIRMAN HOOD: Okay. All right. Anyone else?

13           (No audible response.)

14           CHAIRMAN HOOD: Okay. Any other comments?

15           Mr. Turnbull?

16           COMMISSIONER TURNBULL: Mr. Chair, after hearing  
17 the two of you -- and I -- Commissioner May going back about  
18 the items that have not been fulfilled as per the order,  
19 maybe this is best seen as sort of a cure notice that there  
20 are items with the previous order that needs to be addressed.  
21 They need to correct it. They need to fulfill the  
22 requirements that are spelled out.

23           And it's probably best for all involved that they  
24 take the time and go back and maybe -- and should address on  
25 how they're going to go forward with the -- if they haven't

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1 met the measures so far, what are they going to do? What  
2 steps are they going to do in going forward to implement the  
3 measures that have to be done. So I would concur with the  
4 two of you.

5 CHAIRMAN HOOD: Okay. Vice Chair Miller?

6 VICE-CHAIR MILLER: Thank you, Mr. Chairman. Can  
7 I ask Mr. Zimmerman a question, or you don't want to -- you  
8 don't want him to be involved in any of --

9 (Simultaneous speaking.)

10 CHAIRMAN HOOD: You can. I mean, I'm pretty sure  
11 I started to do it that way, but, you know -- okay. You can  
12 ask him, but right now --

13 VICE-CHAIR MILLER: He doesn't effect -- I know.

14 CHAIRMAN HOOD: -- it's not going to affect the  
15 way I think we should proceed.

16 VICE-CHAIR MILLER: Yes. No, and I think the  
17 majority of the --

18 CHAIRMAN HOOD: Yes.

19 VICE-CHAIR MILLER: -- Commission wants to delay.  
20 And I think I'm okay with delaying --

21 CHAIRMAN HOOD: Okay.

22 VICE-CHAIR MILLER: -- because I think the notice  
23 to the public needs to be modified to clearly spell out this  
24 CTR issue. And also I understand there's another issue which  
25 will -- which may be in the application, maybe another

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1 special exception request that needs to be noticed to the  
2 public if it's going to be part of this case. So --

3 CHAIRMAN HOOD: Mr. Vice Chair, let me just say  
4 what I'm going to do is have them straighten out everything  
5 that they know they need to straighten out --

6 VICE-CHAIR MILLER: Okay.

7 CHAIRMAN HOOD: -- when they come back.

8 VICE-CHAIR MILLER: Okay.

9 CHAIRMAN HOOD: Okay? So --

10 VICE-CHAIR MILLER: Can I ask a question?

11 CHAIRMAN HOOD: Did you want to ask Mr.  
12 Zimmerman --

13 VICE-CHAIR MILLER: I did. I just wanted to  
14 ask --

15 CHAIRMAN HOOD: Okay.

16 VICE-CHAIR MILLER: -- Mr. Zimmerman, does the  
17 CTR, the Comprehensive Transportation Review -- is that what  
18 it stands for? Have you -- does it contain the parking and  
19 transportation that was required in the original order?

20 MR. ZIMMERMAN: Yes, the CTR does include what was  
21 required, what we believe was required in the Zoning Order  
22 for 12-01. As we've gone through this process we've worked  
23 with the Applicant on updating that language for Condition  
24 -- and I'm just looking here -- the Condition No. 10, which  
25 is the parking supply study. And we've actually got them to

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1 commit to improving and providing more information than what  
2 had been provided in the past, or what at least was spelled  
3 out in here to provide.

4           So when you get a chance to take a look at those  
5 revised conditions, you'll see that there's a lot more things  
6 that they'll be reporting on in the future. But what they  
7 did provide in the CTR we believe matched what was in the  
8 Zoning Order from 2012.

9           VICE-CHAIR MILLER: So, well, I think that's  
10 helpful information, but so I think -- I mean, if we're --  
11 it looks like the majority of the Commission wants to delay,  
12 so I'm willing to go along with the majority of the  
13 Commission.

14           And I think it would be helpful in the intervening  
15 period; which hopefully is a shortened period, not 45 days  
16 -- perhaps the Applicant can tighten up, as you said, Mr.  
17 Chairman, the notice to address these issues. Also provide  
18 the Commission with more justification as to how you're not  
19 meeting or meeting the various TDM, transportation measures  
20 mostly that were in the original order and the timelines that  
21 will be -- that you'll be agreeing to meet them going forward  
22 or addressing them going forward, and any other issues, which  
23 I understand there might be other issues, which may need to  
24 be noticed to the public.

25           I understand that there was some conversation with

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1 counsel about landscaping screening -- a waiver, a special  
2 exception to avoid that at the parking for the surface  
3 parking lot which I -- just of the top of my head I would not  
4 be inclined to support, but that needs to be noticed to the  
5 public as well.

6 So I will defer to my colleagues and hopefully  
7 we'll get it tightened up, notice to the public and more  
8 information to the Commission to address these issues that  
9 we've discussed, and we can proceed in a expedited manner.

10 CHAIRMAN HOOD: Okay. Any other questions or  
11 comments up here?

12 MS. RODDY: Chairman, could I ask that --

13 CHAIRMAN HOOD: Any questions or comments up here?  
14 I'm going to come to you, Ms. Roddy. Trust me I have --

15 MS. RODDY: Okay.

16 CHAIRMAN HOOD: -- not forgotten you. I know  
17 you're trying to represent your client very well. You've  
18 heard the discussion. I think you do a fabulous job  
19 representing your client and I know you're going to try to  
20 tell us to move forward tonight, but I can tell you it ain't  
21 happening. But you can go right ahead.

22 MS. RODDY: Okay. Well, I would really very much  
23 ask that if -- we move forward this evening. And perhaps the  
24 Commission would consider leaving the record open then for  
25 any community comments. I don't think is going to be a

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1 controversial issue for the community. Certainly you want  
2 to leave the record open to confirm that. And we would  
3 actively reach out to the ANC and our SMD and seek their  
4 input. And we can submit a letter to that effect into the  
5 record.

6           So I would hate -- we are all here. I think that  
7 we have worked all of the issues with OP and DDoT and we have  
8 provided in the updated TDM -- it does include time frames  
9 for when these TDM measures would be implemented. So I think  
10 that we have resolved them. I think the only outstanding  
11 issues are concerned with the community notice, and I think  
12 that you can achieve that by leaving the record open this  
13 evening.

14           CHAIRMAN HOOD: Okay. Thank you. So noted.

15           Okay. So let's look at another date.

16           COMMISSIONER MAY: Mr. Chairman?

17           CHAIRMAN HOOD: Yes, Mr. May?

18           COMMISSIONER MAY: Can I ask a question? So the  
19 one thing that I really find puzzling about this is that,  
20 I mean, first of all -- well, actually not one thing. Sorry.  
21 So one thing is that you never did say in the application  
22 that we didn't meet the 45 days. You just said that we  
23 didn't submit the report and DDoT told us to do something  
24 else. And it would have been helpful if you actually said,  
25 actually, the CTR that went in on May 4th contains all the

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1 information that was in that report so we're really just  
2 requesting a waiver of 15 days, or whatever it was. Right?

3 (No audible response.)

4 COMMISSIONER MAY: No, it wouldn't have worked  
5 that way?

6 MS. RODDY: No, we submitted the report. The  
7 Zoning Regulations require we submit the report 30 days  
8 before the hearing, which we did.

9 COMMISSIONER MAY: Right.

10 MS. RODDY: This is just the report being  
11 submitted -- a report being submitted to DDoT prior to filing  
12 an application.

13 COMMISSIONER MAY: Right.

14 MS. RODDY: And that was the waiver.

15 COMMISSIONER MAY: Right. So when did they get  
16 it?

17 MS. RODDY: At the 30-day requirement.

18 COMMISSIONER MAY: Right. So you're requesting  
19 the waiver of that 45 days down to 30?

20 MS. RODDY: Well, there are two different time  
21 periods. Once before you file; once before the hearing.

22 COMMISSIONER MAY: So it's 45 days before you  
23 file?

24 MS. RODDY: Yes.

25 COMMISSIONER MAY: Got it. Okay.

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1 MS. RODDY: That's what Condition 13 required.

2 COMMISSIONER MAY: Okay. Well, it wasn't clear  
3 from the application that it was submitted on May 4th and  
4 that it was inclusive of everything that DDoT expected in  
5 that report. I mean, we should have been able to figure that  
6 out by reading it very thoroughly, but sometimes I don't get  
7 to read things very thoroughly.

8 The -- but the second thing is that I don't  
9 understand why. I mean, there are all these things that the  
10 university did not provide, did not live up to the  
11 conditions, and there's not a word that says why that  
12 happened. It was just this is what we're required to do.  
13 This is what we did. And now you're submitting conditions  
14 and it's like, well, this is how we're going to do it and  
15 we're going to make it super duper this time if you can count  
16 on us to actually submit anything, or you actually -- you  
17 didn't write that part. I submitted that. Why? Why are we  
18 here and why is so much undone?

19 MS. RODDY: No, and that's completely fair. And  
20 we don't have a really great response to that, so I'm not  
21 going to waste your time and trying to say that. I think  
22 that it's challenging when you have an institution where you  
23 have turnover in the staff that are required to implement  
24 this.

25 I think one of the things you'll see in the

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1 conditions that we submitted tonight that DDoT asked us --  
2 because of the predicament we're in, they asked us to  
3 designate an individual who's responsibility is to make sure  
4 that these are all implemented and pursued. So that is  
5 something that the university is going to do so that we're  
6 not in this position.

7 We don't like being in this position. We did not  
8 want to come here tonight in this position. It's where we  
9 are. And unfortunately delaying the hearing isn't going to  
10 change that. It's been done. We'd like to move forward and  
11 rectify the situation.

12 COMMISSIONER MAY: I think I would still like an  
13 explanation of why. I mean, you've implied that it has to  
14 do with turnover on staff, but I mean -- and I don't know who  
15 was here before among the faces that I see --

16 MS. RODDY: None.

17 COMMISSIONER MAY: None?

18 CHAIRMAN HOOD: So let me ask, who was here during  
19 the Mary Currie days? Anybody?

20 (No audible response.)

21 CHAIRMAN HOOD: Okay. So I lived it; you all  
22 didn't. So I know why -- the way we're moving I think is the  
23 best way we need to move. Okay. I'm sorry.

24 COMMISSIONER MAY: No, I'm with you. I mean, I  
25 want to delay. I also want it explained why this didn't

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1 happen the way it was supposed to, because I think it's --  
2 otherwise it just looks like, well, the Zoning Commission  
3 told you in 2012 to do it this way and you did it something  
4 far short of that. And then you come back in 2018 for  
5 something that requires us to check on all these things.  
6 And, well, haven't done them and we think that's okay. We  
7 can't -- it's hard for us to be taken seriously if we don't  
8 enforce the conditions of the orders.

9           So, and we don't always get the -- we're not  
10 always in the position to enforce the conditions of orders,  
11 but in this circumstance we are. So I think you need to  
12 explain why. And it needs to go into the record that you  
13 gave us good reasons for us to not simply say go away and  
14 come back when you've completed all these things.

15           CHAIRMAN HOOD: Okay. Any other comments up here?

16           (No audible response.)

17           CHAIRMAN HOOD: Ms. Roddy, we've heard you. You  
18 have anything you want to add, because I did hear what you  
19 said. So noted. And we're going to move forward.

20           (No audible response.)

21           CHAIRMAN HOOD: Okay. This is what I would  
22 propose. We actually had two dates that we were going to be  
23 free, colleagues. So she's talking about everybody's here  
24 today. Fine. But we had to -- we're going to proceed with  
25 caution.

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1           We have two dates that we had open. I hope that's  
2 enough time. I can tell you one day is July the 2nd, which  
3 I'm not in favor of unless my colleagues or everybody agrees  
4 to that, and if the work can get done and we can tighten up  
5 everything, even the things that you have that may be  
6 outstanding that you need to request, if you can get all that  
7 together. And the other date was July the 19th. If not, it  
8 will be after our break.

9           Now we're doing the 2nd, and I know everybody's  
10 looking at me. Well, that's into the 19th.

11           VICE-CHAIR MILLER: Hold on a second. I can't do  
12 the 19th.

13           CHAIRMAN HOOD: Okay. Nobody -- okay. We can't  
14 do the 19th. So --

15           VICE-CHAIR MILLER: I'll do the 2nd.

16           COMMISSIONER MAY: I'll do the 2nd.

17           CHAIRMAN HOOD: But can they have it?

18           Can you all have it all done by the 2nd?  
19 Everything.

20           MS. RODDY: I just want to clarify on what -- I  
21 understand you want a rationale as to why the conditions  
22 weren't submitted. You would like the --

23           CHAIRMAN HOOD: Hold on.

24           MS. RODDY: -- us to reach out to the community.

25           CHAIRMAN HOOD: You can't do that by the 2nd,

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1 because that's not enough notice.

2 MS. RODDY: I think we have a good relationship  
3 with our SMD, so I think that we can reach out to them.

4 CHAIRMAN HOOD: Who's your SMD?

5 MS. RODDY: It should be --

6 CHAIRMAN HOOD: You all got such a good  
7 relationship, you don't know who it is.

8 MS. RODDY: I'm sorry. I wasn't involved in the  
9 discussions, but Mr. Burroughs it sounds like. Isaiah  
10 Burroughs.

11 CHAIRMAN HOOD: Well, you might have the SMD, but  
12 then that -- you have to get the -- full ANC is how we give  
13 great weight.

14 MS. RODDY: Correct.

15 CHAIRMAN HOOD: And this is -- is it 5A?

16 MS. RODDY: C.

17 CHAIRMAN HOOD: C? 5C? No, this couldn't be 5C.  
18 That's my ANC.

19 MS. RODDY: Oh, it's 5A.

20 CHAIRMAN HOOD: Okay.

21 MS. RODDY: They changed.

22 CHAIRMAN HOOD: Because if this was C, this is my  
23 ANC.

24 MS. RODDY: It used to be 5C. Now it's 5A.

25 CHAIRMAN HOOD: I know we wouldn't hear it

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1 tonight.

2 Ms. Hanousek, we have a problem with both dates,  
3 the 2nd and the 19th. Do we have any other dates?

4 COMMISSIONER MAY: A Wednesday.

5 CHAIRMAN HOOD: I was going to throw out a  
6 Wednesday, but every time I do that I get in trouble. And  
7 this is how we're trying to accommodate, because I think if  
8 you can shore it up, we have a clean slate moving forward.

9 The 12th? July the 12th? What day is that on?

10 COMMISSIONER TURNBULL: Thursday.

11 CHAIRMAN HOOD: Oh, that's a Thursday? Do we have  
12 a hearing July the 12th? Does anybody know? I don't keep  
13 the schedule.

14 (No audible response.)

15 CHAIRMAN HOOD: Well, this shouldn't take -- even  
16 if we had another hearing, it shouldn't take that long. We  
17 can start this one early. And I'm talking --

18 COMMISSIONER TURNBULL: I'm not showing anything  
19 on the 12th.

20 CHAIRMAN HOOD: Well, I wonder why we didn't get  
21 the 12th. July the 12th, right? Does anybody have the  
22 schedule, because I don't want to schedule anything if we  
23 already have something. Do we have something scheduled for  
24 the 12th?

25 COMMISSIONER MAY: There's nothing on the schedule

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1 on the 12th.

2 CHAIRMAN HOOD: So we got something on the 12th?  
3 Because I don't see a dot. So we --

4 COMMISSIONER TURNBULL: Yes, the 12th is open.  
5 The 12th is open like --

6 (Simultaneous speaking.)

7 CHAIRMAN HOOD: I don't see a dot. Oh, I see.  
8 Oh, okay. So we don't have anything on the 12th, right, Ms.  
9 Hanousek?

10 MS. HANOUSEK: My understanding is nothing was  
11 being scheduled for the 12th.

12 CHAIRMAN HOOD: Oh, hold on a second. Do we have  
13 anything on the 12th? Something was being scheduled for the  
14 12th?

15 MS. HANOUSEK: Yes, there's nothing scheduled for  
16 the 12th. There wasn't going to be anything scheduled, but  
17 I guess you could do that.

18 MS. HANOUSEK: We can do the 12th.

19 CHAIRMAN HOOD: Okay. So we'll do July the 12th.  
20 And, Ms. Roddy, while you made a good attempt, we would like  
21 for everything -- I mean, is there something unclear? I  
22 think you all -- you probably know the issues better than I  
23 do, but we need to shore them up, make sure we got a clean  
24 slate moving forward. We need to know that you talked to  
25 your ANC and whatever notice you can give. We're willing to

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1 give it to the 12th of July.

2 Is that okay, Ms. Hanousek, the 12th? Did  
3 somebody have something to do the 12th why we had it --

4 MS. HANOUSEK: Yes. No, the 12th will be okay.  
5 And I wanted to add that we're going to -- since we're going  
6 to send out new notice, I need to get something from you.

7 CHAIRMAN HOOD: Hold on one second. Ms. Hanousek,  
8 can I see you a second?

9 (Pause.)

10 CHAIRMAN HOOD: Okay. So the 12th it will be.  
11 Ms. Hanousek --

12 (Simultaneous speaking.)

13 MS. HANOUSEK: Yes, so we would like to get a new  
14 notice from you as soon as possible so that we can get it in  
15 to the Register. It would be -- it still wouldn't be a full,  
16 but it would be closer to at least 30 days. And there are  
17 other issues: TDM and broader issues, so you would also need  
18 to be submitting a 200-radius of the entire campus.

19 CHAIRMAN HOOD: So I'm proposing this: Why we  
20 can't do it after our meeting on the 9th? We shouldn't have  
21 that much stuff on the agenda. I probably shouldn't have  
22 said that either, but I mean, it shouldn't -- our meetings  
23 only last what, an hour?

24 MS. HANOUSEK: I don't know what that -- our  
25 meetings can be pretty full. I really --

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1 CHAIRMAN HOOD: Okay. Let's --

2 MS. HANOUSEK: I think sticking with the --

3 CHAIRMAN HOOD: That's just an extra date to come  
4 in. Okay. Let's do the 12th.

5 Okay. So, Ms. Roddy, can we meet that schedule?

6 MS. RODDY: Yes.

7 CHAIRMAN HOOD: Everything? And whatever you're  
8 proposing, whatever is out there that was not mentioned,  
9 whatever you need to bring up, let's get all that -- let's  
10 come in with a clean slate so we can move forward. I don't  
11 expect this hearing -- unless something comes up I don't  
12 expect for us to be long with this. I really don't. It's  
13 just that these issues need to be straight before they get  
14 to us and let's just clean up everything. Anything  
15 requested, anything that's out there that has not been  
16 mentioned, you need to deal with it.

17 MS. RODDY: Understand.

18 CHAIRMAN HOOD: Okay? All right. Anything else?

19 COMMISSIONER TURNBULL: Yes, Mr. Chair, I just  
20 wanted -- one of the things they were saying is that this  
21 little building, the parking lot has no impact on the  
22 neighborhood, and I think they're trying to minimize  
23 screening or none. I would like to see a view from the  
24 street just so that we can confirm what we're really seeing  
25 for the neighborhood. I think the -- and I don't know if

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1 Bates is the most prominent one or if there's another view,  
2 but I think we wouldn't mind seeing a view of what it looks  
3 like.

4 COMMISSIONER MAY: And do we have clarity on the  
5 question of relief for the screening requirement?

6 MS. LOVICK: Well, the Applicant would be amending  
7 the application, modifying the application, and that public  
8 hearing notice should include all relief that's being  
9 requested, all relief and any modifications to the order that  
10 are being requested.

11 COMMISSIONER MAY: Okay.

12 CHAIRMAN HOOD: So that notice needs to go out  
13 like this week.

14 MS. RODDY: We'll have it to Ms. Hanousek  
15 tomorrow.

16 CHAIRMAN HOOD: Okay. All right. Anything else?

17 (No audible response.)

18 CHAIRMAN HOOD: So we will postpone this to -- do  
19 we want to do 6:30 or 6:00? 6:30. Okay. Leave it like it  
20 is. Okay. We'll postpone this until -- continue this on  
21 July the 12th at 6:30.

22 Ms. Hanousek, could you make sure that that gets  
23 on our schedule?

24 MS. LOVICK: I just want to interject and just  
25 clarify. So is the Applicant clear about what needs to be

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1 tightened up in terms of the TDM during this time frame,  
2 because I'm just -- I wasn't sure. So I --

3 MS. RODDY: My understanding is we've reached an  
4 agreement with DDoT, so I believe we tightened the TDM, but  
5 what you're looking for is more of -- to elaborate as to why  
6 we have not committed or completed the items that were  
7 previously in the order, and that's what needs to be  
8 tightened up.

9 CHAIRMAN HOOD: Yes. And I don't know why the  
10 12th was open then. I think about it. But if somebody's not  
11 here, we -- it's five of us up here. We can continue on.  
12 Maybe Commissioner Shapiro will be here as well. We may have  
13 five or we may have four, but we will do the 12th.

14 Okay. So we're straight on that? Well, all the  
15 other issues that you bring up: the TDMs as requested, why  
16 they weren't done? And you know what the other issues are.  
17 They mentioned about the screening and some other issues.  
18 So let's make sure we bring all that. Let's make sure the  
19 notice is properly given.

20 Anything else?

21 (No audible response.)

22 CHAIRMAN HOOD: All right. So with that we will  
23 continue this hearing on July the 12th at 6:30. Thank you.

24 (Whereupon, the above-entitled matter went off the  
25 record at 7:24 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Regular Meeting

Before: DCZC

Date: 06-04-18

Place: Washington, DC

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



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