

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

IN THE MATTER OF:

Text Amendment -- Filing
Deadline for Appeals to the
Board of Zoning Adjustment

Case No.
02-01

Thursday
April 11, 2002

Hearing Room 220 South
441 4th Street, N.W.
Washington, D.C.

The Public Hearing of Case No. 02-01 by 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., Carol J. Mitten,
Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chairperson
ANTHONY J. HOOD	Vice Chairperson
JAMES HANNAHAM	Commissioner
PETER G. MAY	Commissioner
	(Architect of the

Capital)

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COMMISSION STAFF PRESENT:

Alberto P. Bastida, Secretary, ZC
Sharon Sanchez, Office of Zoning

OTHER AGENCY STAFF PRESENT:

John Fondersmith, Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

Marie Sansone, Esq.

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

(6:31 p.m.)

CHAIRPERSON MITTEN: Good evening, ladies and gentlemen. This is a public hearing of the Zoning Commission of the District of Columbia for Thursday, April 11th, 2002.

My name is Carol Mitten. Joining me this evening are Vice Chairman Anthony Hood and Commissioners Peter May and James Hannaham. Commissioner John Parsons will not be joining us this evening.

The subjects of this evening's hearing are Zoning Commission Cases No. 02-01 and 02-03. The first case is a rulemaking, and the second case is a contested case. Each case has a different order of procedure. So I'll read that in advance of beginning each case.

The announcements for this evening's hearing are available to you on the table near the door.

Let me read the procedures first that apply to both cases, and then I'll announce the more specific procedures for each case.

All persons appearing before the Commission are to fill out two witness cards. These cards are located at each end -- well, they're not on the table in front of us. They're, in fact, on the table near the door.

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1 Upon coming forward to speak to the
2 Commission, please give both cards to the reporter sitting
3 to my right.

4 The decision of the Commission in these cases
5 must be based exclusively on the public record. To avoid
6 any appearance to the contrary, the Commission requests
7 that persons present not engage the members of the
8 Commission in conversation during a recess or at any other
9 time.

10 The staff will be available throughout the
11 hearing to discuss any procedural questions.

12 Please turn off all beepers and cell phones
13 at this time so as not to disrupt these proceedings.

14 So now I will move to the more specific
15 announcement regarding Zoning Commission Case No. 02-01.

16 This is a text amendment that relates to appeals to the
17 Board of Zoning Adjustment of decisions by the Zoning
18 Administrator.

19 Notice of this hearing was published in the
20 D.G. Register on February 22nd, 2002 and in the Washington
21 Times on February 18th, 2002. This hearing, the first
22 hearing, will be conducted in accordance with the
23 provisions of 11 DCMR, Section 3021, which is the
24 procedure for rulemaking hearings, and those of you who
25 are here for the second case, this won't take long.

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1 The order of procedure for the first case
2 will be as follows. Preliminary matters, followed by
3 the case presented by the petitioner, followed by a
4 report, if there is one, by the Office of Planning, reports
5 of any other government agencies, reports of any affected
6 ANCs, organizations, and persons in support, and
7 organizations and persons in opposition.

8 We will allow five minutes for organizations
9 and three minutes for individuals. The Commission
10 intends to adhere to these time limits as strictly as
11 possible in order to hear the case in a reasonable period
12 of time.

13 The Commission reserves the right to change
14 the time limits for presentations if necessary and notes
15 that no time shall be ceded.

16 So in the first case, Mr. Bastida, are there
17 any preliminary matters?

18 SECRETARY BASTIDA: No, Madame Chairman.
19 The only -- excuse me. Yes. We had received. We have
20 received this afternoon a report from Holland & Knight
21 regarding this case, and I just handed it to you a few
22 minutes ago, and there are copies available if anybody
23 else would like to have a copy.

24 I believe that there is no -- I cannot see
25 anybody here in the audience for this case.

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1 CHAIRPERSON MITTEN: Is there anyone here
2 for Case 02-01, which is the text amendment related to
3 BZA appeals? Raise your hand, anyone.

4 PARTICIPANT: Can you speak?

5 CHAIRPERSON MITTEN: You can speak on it when
6 you get there. Would you like to speak about that one?

7 PARTICIPANT: I'm trying to get something
8 signed.

9 CHAIRPERSON MITTEN: Okay. Don't bother.
10 I think I can remember this.

11 Okay. So is that it for preliminary matters?

12 SECRETARY BASTIDA: Correct, Madame
13 Chairman.

14 CHAIRPERSON MITTEN: Okay. So let's move
15 along then to the case by the petitioner. I think, Mr.
16 Bastida, are you going to handle that?

17 SECRETARY BASTIDA: Yes, and I would like
18 first to point out that there is hearing announcements
19 that spell out exactly what is supposed to do in a
20 nutshell. Basically we're trying to establish a time
21 frame by which the appeals should be filed.

22 The main point is 60 days, and that an
23 additional 60 days can be granted, provided certain
24 circumstances take place, and all is spelled out on
25 Subsection 3112.2(b) and (c), and the Board could extend

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1 based on that criteria, initial on 60 days. So the
2 overall time would be 120 days since the issuance of the
3 permit.

4 And the Office of Zoning thought that that
5 was a reasonable amount of time. That really basically
6 concludes my presentation, but for the office of Holland
7 & Knight, the analysis of the proposal, if you want me
8 to put that into the record, I'll be glad to do that.

9 CHAIRPERSON MITTEN: Well, I believe it's
10 in the record now.

11 SECRETARY BASTIDA: Well, I'm sorry.

12 CHAIRPERSON MITTEN: I don't think you need
13 to read it to us.

14 SECRETARY BASTIDA: To read it. Okay. It
15 is in the record.

16 CHAIRPERSON MITTEN: Yes. Thank you.

17 SECRETARY BASTIDA: Thank you.

18 CHAIRPERSON MITTEN: And just for a tiny bit
19 of more background, in many of the appeal cases that have
20 been coming before the BZA, the timeliness issue is often
21 a contentious issue, and so we're trying to give some
22 guidance in that area, and that's why we're seeking input
23 from anyone who had concern about it.

24 Let's move to the Office of Planning. I know
25 we don't have anything in writing. Mr. Fondersmith, was

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1 the Office of Planning going to weigh in on this?

2 MR. FONDERSMITH: No.

3 CHAIRPERSON MITTEN: All right. Thank you.

4 And I don't believe that there's anyone here
5 from any other government agency.

6 And, Ms. Miller, since we don't have anything
7 from your ANC formally, we'll just have you come forward
8 as an individual.

9 MS. MILLER: That's right.

10 CHAIRPERSON MITTEN: So let's do that now
11 and maybe you can begin by saying whether you're in support
12 or opposition. And you'll have three minutes.

13 MS. MILLER: I won't need that many.

14 I just --

15 CHAIRPERSON MITTEN: Identify yourself for
16 the record.

17 MS. MILLER: Oh, I'm Dorothy Miller,
18 Commissioner for ANC 2A-05.

19 And I just found out today in the hearings
20 that were going on before the District's City Council
21 that Mr. Clark has issued through the Zoning Administrator
22 that anything he does is private and that nobody is --
23 it's not available to anyone, and I think that matter
24 should be cleared up before this passes through.

25 Now, Sharon Ambrose says that's going to end

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1 right now, but I think it ought to end before this is
2 passed.

3 CHAIRPERSON MITTEN: Okay.

4 MS. MILLER: Because if the community can't
5 have access to what they've done, how do we know what's
6 going on?

7 CHAIRPERSON MITTEN: Okay. Thank you.
8 That's valid. Thank you.

9 Mr. Bastida, on that point, since we were
10 all there and also heard this exchange at the City Council,
11 how would we go about ascertaining what that policy is?

12 Because certainly access to information does affect the
13 issue of the timeliness of an appeal.

14 SECRETARY BASTIDA: My suggestion would be
15 to write from the Chair a letter to Mr. Clark expressing
16 concern of what has been heard, for him to provide further
17 information to the Commission.

18 CHAIRPERSON MITTEN: Okay. Would you like
19 to assist me in drafting such a letter?

20 SECRETARY BASTIDA: I'll be delighted.

21 CHAIRPERSON MITTEN: Thank you.

22 Okay. I think that's all that we have for
23 this case. Anyone else here for Case No. 02-01, which
24 is the text amendment related to the timing of BZA appeals?

25 (No response.)

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1 CHAIRPERSON MITTEN: All right.

2 SECRETARY BASTIDA: Madame Chairman, can I
3 suggest that perhaps you want to vote on the proposed
4 rulemaking and that way we can publish in the Register
5 after we have the 30 day comment period, and that way
6 we might be able to make the June meeting?

7 CHAIRPERSON MITTEN: Actually, I'd really
8 like if we could just bring this up at our April meeting
9 because there are a couple of issues that I'd like to
10 raise when we deliberate, and I'd hate to have all of
11 these folks sitting here waiting for the second case.

12 SECRETARY BASTIDA: Okay. Then you have
13 received your package already. So I will make a revised
14 agenda and hand it to you on Friday, a week from Friday
15 or tomorrow.

16 CHAIRPERSON MITTEN: Okay.

17 SECRETARY BASTIDA: And I will just put that
18 on proposed actions.

19 CHAIRPERSON MITTEN: Okay.

20 SECRETARY BASTIDA: If that's your pleasure.

21 Thank you.

22 CHAIRPERSON MITTEN: All right, and the
23 record is closed for this purpose, but then when there's
24 this additional opportunity for comment when the
25 rulemaking is published, correct?

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SECRETARY BASTIDA: Correct.

CHAIRPERSON MITTEN: Okay. Thank you.

SECRETARY BASTIDA: Thank you.

CHAIRPERSON MITTEN: So that's the
conclusion of Case No. 02-01.

(Whereupon, at 6:41 p.m., the public meeting
in the above-entitled matter was concluded.)

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