

GOVERNMENT OF THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR MEETING

1095th MEETING SESSION (1st of 2000)

+ + + + +

MONDAY

JANUARY 10, 2000

+ + + + +

The Regular Meeting of the District of Columbia
 Zoning Commission convened at 1:30 p.m. in the Office of Zoning
 Hearing Room at 441 4th Street, Northwest, Washington, D.C.,
 Anthony J. Hood, Chairman, 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

STAFF PRESENT:

ANDREW ALTMAN	Office of Planning
STEPHANIE D. BROWN	Office of Zoning
JOHN FONDERSMITH	Office of Planning
JERRILY R. KRESS	Staff Director

ALSO PRESENT:

MARIE SANSONE, ESQ.	D.C. Office of Corporation Counsel
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Office of Planning Monthly Status Report;

IV.	Proposed Action	17
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The Commission has heard the following cases; proposed action is requested:

A. Case No. 99-3Z (II) Downtown Development District, Miscellaneous Housing-Related Text Amendments at 1301 L Street, N.W.

B. Case No. 98-13 (Map Amendment at Syphax Elementary School) - COMMISSIONERS MITTEN, HOLMAN AND FRANKLIN ARE ASKED TO READ THE RECORD AND BE READY TO PARTICIPATE IN THIS DISCUSSION.

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VI.	FINAL ACTION	36
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The Commission has taken proposed action on the following case; final action is requested;

Case No. 97-7(I) Remaining SP Map Amendments - Logan Circle/Thomas Circle Subarea.

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A. Letter dated December 21, 1999 from Terry Lynch of the Downtown Cluster of Congregations requesting the Commission to review limiting the number and/or size of nightclubs in the downtown area

I-N-D-E-X (CONT.)

B.	Z.C. Case No. 90-3C (Consolidated PUD and Map Amendment @ Michigan Ave., and Irving St., NE - Conference Center Associates Limited Partnership/DHCD	
i.	Request dated December 30, 1999, from the law firm of Wilkes, Artis, Hedrick and Lane on behalf of the applicant Conference Center Associates Limited Partnership for a Six Month Extension of PUD Order Nos. 689, 689-A, 689-C and 689-D.	
ii.	Memorandum dated December 27, 1999 from DHCD requesting the Zoning Commission to extend the PUD Case from December 31, 1999 to April 30, 2000.	
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P-R-O-C-E-E-D-I-N-G-S

(1:30 p.m.)

CHAIRPERSON HOOD: Good afternoon, ladies and gentlemen. This is the regular monthly meeting of the D.C. Zoning Commission, Monday, January 10th, at 1:30 p.m.

I am Anthony Hood, Chairman of the D.C. Zoning Commission. Joining me are Commissioners Franklin, Mitten, Holman, and Parsons.

Let me just start off by welcoming you to our first meeting of the 21st century, and I hope everyone had a good holiday, and naturally I'm sure your holiday was real short.

(Laughter.)

CHAIRPERSON HOOD: Let's move right into our agenda, Preliminary Matters. There are none.

DIRECTOR KRESS: I'm sorry. Yes, I just wanted to point out to you what is on the podium in front of you. It's the reminder schedule, and a letter from Wilkes, Artis, Hedrick and Lane regarding 99-3Z2 which came in after the packages were sent out. So, those are the only Preliminary Matters I have, Mr. Chairman.

CHAIRPERSON HOOD: Okay. Thank you, Ms. Kress. I'm sure our Commissioners will govern ourselves accordingly.

Let's see. Action on our Minutes, there are none.

Status Report, Office of Planning.

MR. ALTMAN: Sorry. I was just looking for the --

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1 oh, here it is.

2 Members of the Commission, our first meeting of the
3 millennium.

4 (Laughter.)

5 It's good to be here, and the Office of Planning
6 has submitted a status report.

7 I'm happy to go over any of the items contained
8 within it, and to answer any questions that you have, as opposed
9 to walking through item by item.

10 CHAIRPERSON HOOD: Colleagues, do we have any
11 questions of our distinguished Director of the Office of Planning?

12 COMMISSIONER MITTEN: I was just wondering if you
13 could give us a little bit more of a status report on the Woodies
14 case, because we've had it scheduled several times and you
15 definitely have some progress going on there. If you could just
16 give us a little insight into what you've accomplished so far, and
17 what you have yet to sort out?

18 MR. ALTMAN: Yes. I'd be happy to. As you know,
19 we have postponed the consideration of the Woodies item last week
20 for another 60-day period.

21 When this was before the Commission -- well, it's
22 been before the Commission a number of times, postponed, but in
23 September it was coming before the Commission for a Zoning Text
24 Amendment, which was looking at the various options related to the
25 ratios of preferred uses on the site, in other words, the ratio of

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1 what's currently allowed, which is retail, and arts-related
2 office, as well as the comprehensive plan amendments which allowed
3 for housing as well.

4 The developer -- the property owner, Douglas Jemal,
5 had been looking at various ways to bring forward that project and
6 requested at the time that there be an amendment to allow for
7 office uses, which he felt was important in terms of the economics
8 of the site to bring the retail on. Much discussion at that point
9 ensued. This is last summer.

10 As you know, the history of it, just to back up a
11 bit, discussion among downtown housing advocates and others
12 related as to whether housing could be incorporated as part of
13 that proposal.

14 That's when there were a number of amendments that
15 were brought forward to the Zoning Commission looking at different
16 ratios. If you were to allow office, how much housing might be
17 required? What are the preferred uses on the site?

18 That really started to open up the whole
19 possibility of what should this building be in terms of would it
20 be important to bring Woodies online, everyone recognizing that
21 the primary objective, I think, was to get retail into the site.

22 It's about 440,000 square feet, the building. It
23 looks like the maximum retail people are looking at trying to
24 achieve is about 150 to 160 thousand square feet of retail. And
25 the question is: if that's your base, then what else can you

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1 accomplish in that site?

2 When these were coming forward to the Zoning
3 Commission, I asked that it be continued so that we can conduct an
4 analysis, both an economic analysis -- an economic analysis of
5 what was feasible on the site so that we'd have a basis that we
6 could bring forward to the Zoning Commission in which to make
7 recommendations as to which ratio both met the goals for downtown,
8 which we're in the process of doing through the downtown action
9 plan which John Fondersmith has been involved in for quite some
10 time, and at the same time, know that we have something that's
11 economically viable.

12 Before, the discussion was more theoretical as to
13 whether which ratio might work or might not.

14 So, two things are going on right now along those
15 lines. One is that we've established sort of an ad hoc group,
16 really, of many people who were involved in that discussion before
17 in Downtown Cluster of Congregations, Downtown Housing Now,
18 Committee of 100, some of the Downtown Developer Roundtable,
19 Downtown Business Improvement District, people who have been
20 concerned about that site and testified or at least appeared
21 before the Zoning Commission, just simply as a sounding board
22 around this issue to try to get to what it is that are the
23 commonly shared objectives about this site.

24 Secondly, though, in the Office of Planning, what
25 we are doing is we have brought on expert consultant help to begin

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1 to look at different re-use options and what the preferred use
2 mixes might be and they are generating four or five different
3 scenarios.

4 Our goal then, once we've looked at those scenarios
5 and which ones are economically viable, is we're working with
6 Douglas Jemal to put together a package to bring forward to the
7 Zoning Commission when we have something to present.

8 Frankly, at this point, his preferred alternative
9 now has been that it be what he calls
10 the one-for-one option, which is one square foot of retail and
11 then one square foot of a preferred use, which could be office or
12 -- one square foot of office per one square foot of preferred use,
13 which could be retail and/or housing or arts-related.

14 So, that's the nature of discussion now, it's the
15 narrowing of the alternatives.

16 CHAIRPERSON HOOD: Okay. Thank you. Any other
17 questions of Office of Planning?

18 COMMISSIONER FRANKLIN: Yes. Just one, Mr.
19 Chairman. Does Mr. Jemal have an architect that he's engaged to
20 begin the work on a schematic design?

21 MR. ALTMAN: No. I'm not certain at this point.
22 He had had someone and I think he's in the process of doing that.

23 COMMISSIONER FRANKLIN: I hope that's so.

24 MR. ALTMAN: That's obviously a critical piece in
25 looking at the physical constraints of the site.

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1 COMMISSIONER FRANKLIN: Right. Right, because when
2 he appeared before us, it was apparent that he had not consulted
3 any architects, and I hope that that will ensue before long.

4 COMMISSIONER MITTEN: Can I just ask a question?
5 In your final report, this particular process for a rule-making
6 case is different than we've experienced in the past, at least,
7 that's my understanding.

8 And there's a couple of things that make it
9 different. One is the sort of -- this group that you've drawn
10 together of people that you're using, as you said, as a sounding
11 board.

12 Another is sort of the very high level of scrutiny
13 of a specific site. It's almost like it's custom zoning.

14 I guess I'd just like to see some discussion in the
15 final report of, either the special characteristics of the Woodies
16 site that made this appropriate, or that this is a desirable thing
17 to use in further cases, or just, you know, some sense of
18 reflecting on the procedures that you've used and the approach
19 that you've taken.

20 Then, another thing that I would request, if you
21 find it appropriate, because there are a number of scenarios that
22 you're considering, and while we're interested in whatever your
23 preferred scenario is, if you can give us guidance about, you
24 know, sort of your second choice or third choice to give us some
25 flexibility. So, if we find that we have other constraints that

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1 we need to deal with, we won't just be dealing with one choice
2 that you put forward.

3 MR. ALTMAN: Just a quick, brief comment on that
4 which is, this had initiated before I started. I was
5 concerned that as a broad rule-making case, which is how it was
6 going forward, that it was requesting the Commission and the city,
7 frankly, to provide what I thought was significant zoning relief.

8 I thought it set precedent without understanding
9 truly what was going to be developed on site, what guarantees
10 there were that we'd achieve that, and what basis was there,
11 frankly, for the broad zone change without looking at some of the
12 specific analytical, economic considerations, that it really
13 became a kind of an abstract, if you will, zoning discussion
14 without a factual basis.

15 And I felt it was important to bring that to the
16 Commission or else you would have a discussion of two-to-one, one-
17 to-one, three-to-one, without a good basis, a sound basis, for
18 knowing what was really achievable.

19 So, I bring that forward because I don't think that
20 it's how you obviously want to treat all cases. Ideally, you
21 don't do it this way.

22 CHAIRPERSON HOOD: Mr. Altman, I too, had a --
23 first, colleagues, any further questions?

24 COMMISSIONER PARSONS: I just wanted to follow up
25 on Ms. Mitten's comment as to what she meant by alternatives.

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1 Do you mean alternative ratios? How far do you
2 want to go with alternatives? An all residential project? A
3 retail on the entire project? Or do you just want to examine the
4 alternatives that he looked at or that they're looking at
5 together?

6 COMMISSIONER MITTEN: Well, I guess I'd just be
7 interested in as much -- I mean, there's two things that they can
8 provide to us. One is a recommendation for a final disposition of
9 it.

10 Another is guidance, you know, here's the reasons
11 why we chose this ratio rather than this and these were the things
12 we considered. If you lean more in this direction, this is a
13 consequence. So that we're getting more, I guess, the full
14 benefit of all of the conversations that have been going on rather
15 than being limited to whatever is in their final recommendation.

16 Was that responsive?

17 COMMISSIONER PARSONS: Okay. Yes. I just thought
18 maybe you wanted to go back and see if Woodies would come back.

19 (Laughter.)

20 I'm kidding, but you know what I mean. Whether we
21 need an opera house here, those kinds of alternatives. I didn't
22 think that's what you meant.

23 COMMISSIONER MITTEN: No, that isn't, and I'm glad
24 that we clarified that. Thank you. (Laughter.)

25 COMMISSIONER FRANKLIN: Well, I endorse what

1 Commissioner Mitten has said. I think it's an excellent idea to
2 not present this Commission with sort of a pre-cooked solution on
3 a take-it-or-leave-it basis, but to know what all the various
4 considerations are.

5 I would say, probably, if I put words in your
6 mouth, all feasible alternatives, because we can all think of some
7 alternatives that may or may not be feasible.

8 CHAIRPERSON HOOD: Okay. I just had a few
9 questions, Mr. Altman, basically dealing with our schedule.

10 First, I don't know if you've seen a copy of our
11 reminder schedule. I was just going to ask how close we will be
12 sticking with this, because I do know that my colleagues have
13 other things that they do and we try to plan our schedules
14 accordingly.

15 If you can just kind of give me -- do you think
16 we're going to be able to stick close to this schedule or do you
17 see some deviation?

18 Then, that way we can be aware of it at this moment
19 or you can let us know as soon as possible.

20 MR. ALTMAN: No, I would say this schedule looks
21 right. I'm not sure of various agenda items, so I'm not sure
22 what's all included in those.

23 In terms of the main -- the one possible change
24 here, which I will know very shortly, is going to be potentially
25 the public hearing on Thursday, the 17th of February at 7:00

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1 o'clock on the Text Amendment, Chapter 7 of DCMR, and I will get
2 back to you on that.

3 Now, maybe this is a good opportunity to talk about
4 that a little bit in the sense that there are a number of
5 amendments that have been proposed affecting the Downtown Housing
6 regulations, which I think should be after the consideration
7 today.

8 There are further amendments, this one which
9 relates to a Text Amendment as well as there's been discussion of
10 the TDRs in Mr. Helman's case, as well as the Downtown Housing
11 Task Force, which has looked at proposals for the revision of the
12 Compliant Lot Regulations.

13 I think it is important that we hear all of those
14 in a very expeditious manner, but also hear them, I think, in some
15 sense together or within the same timeframe so that you can, in a
16 sense, almost like batching, if you will.

17 You'll take action separately on them, but you can
18 see the relationship between them as you're looking at the whole
19 picture of what's going on in terms of downtown housing.

20 That's why I thought it was -- so, there may be a
21 change to that one. I'm working on the schedule now with their
22 representatives, and in relation to the other two items that I
23 know of that are coming forward.

24 CHAIRPERSON HOOD: So, as we know it now,
25 everything is good until we get to pretty much the 17th?

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1 MR. ALTMAN: Yes.

2 CHAIRPERSON HOOD: Okay. And if something changes
3 tentatively, you'll let us know?

4 MR. ALTMAN: Yes. Also, you should know, and maybe
5 the Executive Director has commented on this already, but she and
6 I met and we are going to be having a monthly meeting where we are
7 going to be going through all of the agenda items.

8 That also will be open to members of the
9 Commission, so that we can go through and really make sure that
10 we're on top of everything in schedules, both in terms of
11 immediate items and future ones, so we can plan for the time of
12 the Commission and the reports, and everything.

13 DIRECTOR KRESS: Yes. I was going to report on
14 that a little later on the agenda, but I'm happy you've brought it
15 up now in this context.

16 CHAIRPERSON HOOD: Also, I wanted to ask basically
17 a follow-up from my last meeting, the Campus Plan Review, and the
18 promulgation of the new regulations.

19 I also see in my reading where I see the Downtown
20 Housing TDRs where we are tentatively looking at March.

21 Do we have any prospective dates for the Campus
22 Plan? I'm not trying to put you on the spot. I'm just trying to
23 -- because these are some -- three of the issues that I know that
24 I've received letters from Mrs. Cropp and others. These issues
25 are right now, I know, pressing and I just wanted to see where we

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1 were.

2 MR. ALTMAN: March is the timeframe for the
3 Downtown Housing amendments. That is the target date that they're
4 looking at to bring forward all of those.

5 The Campus Plan, I'm evaluating that now. I hope
6 to also bring that forward shortly for discussion with the
7 Commission.

8 CHAIRPERSON HOOD: Okay. Sounds good. Any further
9 questions or comments?

10 (No response)

11 CHAIRPERSON HOOD: Okay, Mr. Altman. I want to
12 thank you for a thorough report, and we're looking forward to
13 continuing a good working relationship in the future.

14 Moving right along, Proposed Action, Office of
15 Planning, Case No. 99-3Z. Is it 2Z?

16 DIRECTOR KRESS: 3Z-2.

17 CHAIRPERSON HOOD: Oh, 3Z-2. I'm sorry.

18 DIRECTOR KRESS: We've got 2 and 3 just to be clear
19 for the record.

20 CHAIRPERSON HOOD: Right. Okay.

21 MR. ALTMAN: Yes, members of the Commission, this
22 item was before you before the holidays, the Christmas and New
23 Year holiday.

24 At that time, this is a -- this, by the way, this
25 is the item at 1301 L Street.

1 Just by way of background before I go through this,
2 on May 20, 1999, the Zoning Commission held a public hearing
3 concerning 3DD Housing-Related Text Amendments proposed by the
4 Office of Planning, one of those Amendments related to what's
5 before you today, 1301 L Street PUD.

6 At the Commission hearing in December, a number of
7 issues were raised regarding this and I think they really boil
8 down to the following, and it was very helpful that we received a
9 memo from Commissioner Mitten on this.

10 The concern was that members felt that this was a
11 laudable project, that we want to encourage downtown housing, but
12 we're concerned that this might open up a larger question, or
13 might dilute the intent of the Downtown Housing regulations, in
14 particular, related to housing priority areas.

15 The concern, I think, being two-fold. One, that
16 you might create housing opportunities outside of the downtown
17 housing priority areas which would dilute the impact of housing
18 within those priority areas.

19 Second, is that within the housing priority areas
20 themselves, it might give further advantage of office over
21 housing.

22 So the Commission's, I think at that time, main
23 concerns were, how can we support this project, but at the same
24 time construct a solution that does not significantly dilute the
25 intent of the downtown housing regulations?

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1 As you know, in 1989, the Zoning Commission
2 approved a PUD for mixed use, office and residential. The
3 residential was built. There is a lot that remains vacant and
4 what this proposal will do is to provide incentives for more
5 residential on a vacant lot.

6 What we have proposed, based on our analysis and
7 also ib the review of Commissioner Mitten's proposed suggestions,
8 I should say, as well as in discussions with the representatives
9 of the applicant, is a very narrowly constructed text change,
10 which is in the recommendation, which would essentially allow 1301
11 L Street to be included within Housing Priority Area B.

12 What that would do, we believe, is provide the
13 incentive for housing on that site, and we believe that it's a
14 unique enough site that it justifies the inclusion within Housing
15 Priority Area B, because it is literally across the street within
16 a block of the Housing Priority Area.

17 It is also, I should say -- there is housing
18 adjacent to the site and around the site. So, in terms of
19 clustering of residential, and providing, I think, the further
20 goal of critical mass for a residential neighborhood which, I
21 know, was one of the concerns before that we might have isolated
22 residential sites. I think this meets the test of having housing
23 within an area in which we could further concentrate housing.

24 At the same time, by only allowing this property,
25 we are not opening up the housing regulations to dilute them in

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1 any way so that any further changes to those regulations can be
2 considered in the context of other text amendments that we would
3 bring forward later.

4 So, in conclusion, what we're recommending is to
5 amend Subsection 1706.8, as described in the report, which would
6 allow Housing Priority Area B, as well as commercial and
7 undeveloped properties in Square 247 with an approved Planned Use
8 Development on or before January 18, 1991, for so long as the
9 Planned Unit Development remains valid, and that concludes our
10 report.

11 CHAIRPERSON HOOD: Okay. Thank you, Mr. Altman.

12 Commissioners, first, before we go into discussion,
13 I would like to say that I would like to thank Commissioner Mitten
14 for taking time to try the amends.

15 If you remember the hearing, we were kind of all
16 going in different directions. She has kind of helped, along with
17 the Office of Planning, to kind of put something together where it
18 looks like it's agreeable to all sides.

19 But before I go out on a limb, I will ask for
20 discussion from my colleagues.

21 Any discussion?

22 COMMISSIONER MITTEN: I just want to point out that
23 the language of specifying Square 247 as opposed to Square 247,
24 Lot whatever, 1301 L Street is, it actually includes two different
25 PUD sites that would get the benefit of this change.

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1 There's an approved PUD at 1301 L, which triggered
2 the request, but there's also one at 1331 L Street that really has
3 a lot of the same characteristics.

4 Just so that no one is surprised by it, this would
5 benefit actually two different PUD sites.

6 CHAIRPERSON HOOD: Okay. Thank you for that
7 clarification.

8 Colleagues, any other comments?

9 COMMISSIONER FRANKLIN: Mr. Chairman, I just have a
10 minor nit. I think the word "approval" should appear after
11 "Planned Unit Development", or at the end of a sentence.

12 The last clause will then read, "For so long as the
13 Planned Unit Development approval remains valid."

14 CHAIRPERSON HOOD: "Development approval remains
15 valid." Okay. Commissioner Franklin, could you read that again
16 for me, so I make sure I understand?

17 COMMISSIONER FRANKLIN: The last clause in the bold
18 face would read, "For so long as the Planned Unit Development
19 approval remains valid."

20 CHAIRPERSON HOOD: Okay. All right. Yes.

21 Okay, colleagues. Any further comments or are we
22 ready to act?

23 COMMISSIONER PARSONS: Well, Mr. Chairman, I think
24 this is the solution we were looking for last time.

25 I thank Commissioner Mitten and Office of Planning,

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1 and move approval of this language as we've just amended it here.

2 COMMISSIONER HOLMAN: I second that.

3 CHAIRPERSON HOOD: Moved, and properly seconded.

4 All those in favor by the usual sign of voting?

5 (Ayes.)

6 CHAIRPERSON HOOD: Any opposition?

7 (No response.)

8 CHAIRPERSON HOOD: Staff, could you record the
9 vote?

10 MS. BROWN: Staff will record the vote as five to
11 zero to approve the proposed language as amended. Mr. Parsons
12 making the motion and Mr. Hood seconded the motion.

13 CHAIRPERSON HOOD: Mr. Holman seconded the motion.

14 MS. BROWN: I'm sorry. Mr. Holman. Thank you.

15 CHAIRPERSON HOOD: Okay. Moving right along with
16 our agenda, Proposed Action Case Number
17 98-13, Office of Planning.

18 DIRECTOR KRESS: I'm not sure that Office of
19 Planning -- this is -- I mean, please comment if they wish to, but
20 this is a case that is somewhat old and that Office of Planning's
21 report dates back to the middle of the summer. So, I did not
22 refer this to them for their current review since it was a matter
23 of continuing processing.

24 So, not to put them on the spot, you might ask them
25 if they wish to make any comments. Otherwise, I might make a few.

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CHAIRPERSON HOOD: Well, Office of Planning, do you wish to make comments? If not, we will proceed.

MR. ALTMAN: We don't have any comments.

CHAIRPERSON HOOD: Okay. Thank you. Okay, colleagues. We have this -- Ms. Kress, did you want to make some comments?

DIRECTOR KRESS: Yes. In fact, Office of Planning's report, I believe it's just been pointed out to me, was made in January of 1999.

This is a case that you may remember, and I believe you've read the file, was put on a request to put it on hold to allow some additional time for Findings of Fact and Conclusions of Law because of the historic nature of continuing issues they had to deal with.

I believe the letter from Arnold & Porter speaks well to the issues, the current issues that need to be addressed.

The only one thing I would point out is that Mr. Bastida gave an oral agreement to stay an additional six months the time limits to submit Findings of Fact and Conclusions of Law.

I believe that we should deal with that in one form or another, either to allow or recognize Mr. Bastida's oral agreement to allow this extension of time.

If not, then to waive the time, or if not, allow a reopening of the record, whatever your disposition, whatever you

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1 feel the appropriate disposition is.

2 This was not sent to all of the members. It was
3 only sent to the members who had not participated before.

4 So, if there are any questions of the whole record,
5 Commissioner Parsons and Commissioner Hood did not receive the
6 full record, since we felt you had had it and perhaps remembered.

7 So we do have it here if you would like to review
8 any pieces of that. So, with that, I'll turn it over back to you.

9 CHAIRPERSON HOOD: I guess my question, Ms. Kress -
10 - maybe I need a clarification on Mr. Bastida's oral agreement. I
11 think it will stand for the simple fact that we were waiting for
12 it to go in front of the Historic Preservation Review Board.

13 That, since, has been done, right? So, I guess,
14 I'm a little confused about what you're asking us to do with that
15 piece.

16 DIRECTOR KRESS: Well, officially in our record, it
17 was only left open for a certain amount of days, 90 days,
18 whatever. That expired and the record now has to be kept open
19 legitimately for another six months, eight months.

20 It was done -- the request was made of Mr. Bastida.
21 Mr. Bastida orally approved that additional extension.

22 I just felt, so that the record was clear, we
23 should either -- you should either acknowledge that, waive your
24 rules, or acknowledge that he spoke on behalf of the Commission,
25 or say he did not speak on behalf of the Commission and it needs

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1 to be reopened.

2 I personally don't think it needs to be reopened.
3 I would have preferred Mr. Bastida handle this in a different way
4 and I believe for the future we will.

5 But in the meantime, so as not to have a problem
6 with appeal, I thought we should legitimately deal with that oral
7 extension.

8 CHAIRPERSON HOOD: So, I guess what you're asking,
9 Ms. Kress, is that we do a procedure of basically waiving our
10 rules, because I think that was done in a timely fashion. It was
11 done in order of what was in front of us at the time.

12 So, colleagues --

13 DIRECTOR KRESS: Let me just point out, just so you
14 have it for your record, the record was supposed to close by
15 February 18th, '99, just to let you know what the original date
16 was.

17 I think one of the ways you can do it is just to
18 acknowledge Mr. Bastida's oral agreement as representing your
19 wishes.

20 COMMISSIONER FRANKLIN: Mr. Chairman, I move we
21 ratify Mr. Bastida's agreement.

22 CHAIRPERSON HOOD: Okay. It's been moved. Is
23 there a second?

24 COMMISSIONER HOLMAN: Second.

25 CHAIRPERSON HOOD: Moved and properly seconded.

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1 All those in favor by the usual sign of voting?

2 (Ayes.)

3 CHAIRPERSON HOOD: Any opposition?

4 (No response.)

5 CHAIRPERSON HOOD: So ordered.

6 DIRECTOR KRESS: Thank you.

7 CHAIRPERSON HOOD: Okay. With that, we have in
8 front of us a case -- and also before we proceed, I would like for
9 the Commissioners to just state for the record that they have read
10 the record.

11 Mr. Holman?

12 COMMISSIONER HOLMAN: Yes, it was my pleasure.

13 (Laughter.)

14 CHAIRPERSON HOOD: It was your pleasure to read the
15 record? Good.

16 COMMISSIONER MITTEN: I have also read the record.

17 (Laughter.)

18 COMMISSIONER FRANKLIN: I have also read the
19 record, but I have to confess I was watching the Redskins.

20 (Laughter.)

21 CHAIRPERSON HOOD: Okay. I would like to just open
22 that up for any discussion. Any discussion?

23 (No response.)

24 CHAIRPERSON HOOD: If there's no discussion, we can
25 obtain a motion. I have some concerns, but they were brought out

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1 at the hearing at the time and I think that due to the
2 circumstances of what's going on in that area, we need to get
3 started.

4 At some point in time, that area should be jump-
5 started. I have to concur with the information that I've read and
6 I think it's time to get started on that end. That's my comments.

7 COMMISSIONER MITTEN: Well, I would just say, based
8 on my reading of the record, that the concerns that folks that
9 were in opposition to the application -- their concerns seem to be
10 targeted in other areas other than the zoning per se.

11 Some people were taking issue with the fact that
12 Manna had been selected to be the party that was permitted to
13 purchase the property and then others seemed to be taking issue
14 with whether the property should be designated historic in part or
15 in full and so on.

16 While they're legitimate concerns, they're not our
17 concerns in the context that we're rezoning. So, I'm in
18 support of the R5-B designation and I think it's very consistent
19 with the comprehensive plan. It's consistent with the direction
20 that the area should take.

21 CHAIRPERSON HOOD: Okay. Any other comments,
22 colleagues?

23 (No response.)

24 CHAIRPERSON HOOD: If not, Commissioner Mitten, was
25 that a motion?

1 COMMISSIONER MITTEN: Sure.

2 COMMISSIONER FRANKLIN: If it was a motion, I'll
3 second it.

4 (Laughter.)

5 COMMISSIONER MITTEN: I move that we approve the
6 re-zoning of the Syphax School site to
7 R5-B.

8 COMMISSIONER HOLMAN: Can I just ask, does that
9 include that agreement that was reached with the Southwest
10 Neighborhood Assembly?

11 Does your motion automatically kind of wrap that up
12 or --

13 COMMISSIONER MITTEN: Well, perhaps I should --

14 CHAIRPERSON HOOD: Let's take the motion off the
15 table.

16 COMMISSIONER FRANKLIN: If I could interrupt?

17 COMMISSIONER MITTEN: Okay. I'll withdraw it.

18 CHAIRPERSON HOOD: Yes. Let's take the motion off
19 the table, and let's make sure that everything's in order.

20 CHAIRPERSON HOOD: Mr. Parsons?

21 COMMISSIONER PARSONS: We cannot make that a
22 condition of our decision. I think in our Findings of Fact, we
23 normally place the fact or are cognizant of the fact. Otherwise,
24 it's some kind of contract zoning which we don't have the
25 authority to do.

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1 COMMISSIONER HOLMAN: That's what I was getting at.

2 Okay.

3 DIRECTOR KRESS: I believe it's also addressed in
4 the Findings of Fact and Conclusions of Law on page 13, number 5,
5 and if there are any other comments on the Findings of Fact and
6 Conclusions of Law, the staff would like to have those so we can
7 work to prepare a Final Order for you, if you so approve this.

8 COMMISSIONER MITTEN: Mrs. Kress, are you making
9 reference to those Findings of Fact and Conclusions of Law that
10 were submitted by the applicant?

11 DIRECTOR KRESS: They were dated January 21, 1999.
12 They were attached to the cover letter dated December 23, 1999.

13 COMMISSIONER MITTEN: Okay.

14 DIRECTOR KRESS: And right now, those are the -- if
15 they haven't been reviewed, they can be handled at a different
16 time, because this is only the proposed action, and you will see
17 this again as a final action.

18 So, you don't need to have decided it completely on
19 all the Findings of Fact and Conclusions of Law today; but if you
20 had any preliminary comments for staff to work on, we would take
21 them at this time.

22 I did just want to point out, they had addressed
23 Commissioner Holman's, a couple of Commissioner Holman's thoughts.

24 COMMISSIONER MITTEN: I think there is an error in
25 the Conclusion of Law, Number 5, on page 13. I can't say that

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1 I've read and that I've scrutinized these. So, this is just
2 something I noticed as opposed to be being what I would -- there
3 may be other corrections I would want to suggest.

4 It says that, "As a condition to approval by the
5 Office of Planning, the applicant has entered into a binding
6 private agreement in writing with a prominent local community
7 organization that places clear and restrictive development
8 parameters on the property only as permitted in," it says, "R5-B,"
9 but wasn't the idea that they were going to restrict the
10 development parameters to those of the R4 District?

11 The agreement is attached to the Office of Planning
12 report and it seems that, you know, for instance, the height limit
13 would not exceed 40 feet. That's an R4 restriction. Am I
14 misunderstanding that?

15 DIRECTOR KRESS: Well, if you look up, and read
16 number four, I am not sure that this is totally clear and rather
17 than take everyone's time, let the staff review this in some more
18 depth.

19 Staff has been a little short-handed, and hasn't
20 spent the kind of time on this Order that we would have liked to.

21 I believe it's dealt with, but again if you pass
22 this, and I'm not suggesting that you do, but if you pass this,
23 then there is time for us to work on this prior to it coming to
24 you in the final Order.

25 COMMISSIONER FRANKLIN: In regard to that

1 paragraph, Mrs. Kress, I'm troubled a little bit by the second
2 sentence in that paragraph along the lines of the comment earlier
3 from Mr. Parsons.

4 For us to say that this Map Amendment is a similar
5 structure to a contractual-type enforcement mechanism as a PUD is
6 --

7 DIRECTOR KRESS: No, I wouldn't advise that.

8 COMMISSIONER FRANKLIN: I would not think we'd want
9 that in a Map Amendment case.

10 DIRECTOR KRESS: Yes.

11 CHAIRPERSON HOOD: Okay.

12 DIRECTOR KRESS: Again, we will resubmit this prior
13 -- if the action goes affirmative here today, we will submit this
14 reworked with staff's comments in it, and to fully evaluate it for
15 your next -- after it's been reviewed by NCPC for final action.

16 CHAIRPERSON HOOD: The only other thing I wanted to
17 add was that I noticed that a lot of times, I believe, at the
18 hearing the community was concerned about the job situation, and I
19 didn't see that. I've read it. I didn't see any Conclusions of
20 Law.

21 Maybe that's not where it's supposed to be, but I
22 was just wondering because I wanted to make sure. I understand
23 what Mr. Parsons is saying about the contract piece, but I know
24 normally we usually mention it, if I'm correct.

25 COMMISSIONER FRANKLIN: Not in a Map Amendment, I

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1 don't think. In a PUD approval we might follow that line.

2 CHAIRPERSON HOOD: Okay. Okay. All right. Thank
3 you. Okay, colleagues. Any further comments or are we ready to
4 act on it with any necessary corrections?

5 COMMISSIONER MITTEN: Shall I try that motion
6 again?

7 CHAIRPERSON HOOD: Yes. Yes. Whoever wants to
8 make the motion?

9 COMMISSIONER MITTEN: I move that we approve the
10 rezoning of the Syphax School site to
11 R5-B.

12 COMMISSIONER HOLMAN: I second it.

13 CHAIRPERSON HOOD: It's been moved, and properly
14 seconded. All those in favor by the usual sign of voting?

15 (Ayes.)

16 CHAIRPERSON HOOD: Any opposition?

17 (No response.)

18 CHAIRPERSON HOOD: So ordered. Staff, could you
19 record the vote?

20 MS. BROWN: Staff will record the vote as five to
21 zero to approve the rezoning from R4 to R5-B. Ms. Carol Mitten
22 and Mr. Holman.

23 DIRECTOR KRESS: Making the motion.

24 MS. BROWN: Making the motion, and seconding it.

25 DIRECTOR KRESS: Thank you.

CHAIRPERSON HOOD: Okay. Moving right along with our agenda, Hearing Action, there's none. Final Action, Case No. 97-7, Ms. Kress?

DIRECTOR KRESS: 90?

CHAIRPERSON HOOD: I'm sorry. Excuse me. 97-7(I).

DIRECTOR KRESS: Yes. Thank you.

(Laughter.)

We've been doing a lot of this bifurcating and trifurcating, unfortunately.

This is the last -- or a major piece of a much larger rezoning. This, and it's up to you, was initially -- it has already had the Proposed Action, and the three Commissioners, Commissioner Franklin, Commissioner Hood, and Commissioner Parsons heard this case and are able to take final action should they choose.

We did not copy the whole record, because this is a long and intricate record, because parts of it begin much earlier and then continue through several other cases.

So, I bring it here for you to decide how you'd like to dispose of it. For now, we've given you the final information, so that an affirmative vote by Commissioners Franklin, Hood, and Parsons would finalize this particular case.

If you wish to reopen it so the new Commissioners can participate, we're happy to, as staff of course, provide you with all of the appropriate information.

1 It's up to you in how you wish to handle this. As
2 you see, we do have NCPC's report. It has gone to NCPC and we do
3 have that in front of us.

4 CHAIRPERSON HOOD: Okay, colleagues. How do we
5 wish to dispose of this? Obviously, this has been going on a
6 while. There's a lot to it, but I also -- let me just start off.
7 I wanted to address the concern.

8 Mr. -- I'm trying to find it -- Mr. Brodsky, Mark
9 Brodsky. Ms. Kress, in my reading of his letter, it seems as
10 though he had not had a chance to testify in any of the hearings
11 and had a problem with a piece of his property being rezoned.

12 DIRECTOR KRESS: May I respond to that?

13 CHAIRPERSON HOOD: Sure.

14 DIRECTOR KRESS: I pulled this out and perhaps I
15 can have staff copy this for you. This is the report of Office of
16 Planning dated July 7, 1999 that you had at the time you made the
17 vote on, I believe, it was July 12th which was the preliminary,
18 the Proposed Action.

19 It refers to Mr. Brodsky and his comments. Yes, he
20 was heard. He was heard several times. Yes, it's on the bottom
21 of page five, the very last sentence.

22 Does Commissioner Franklin have this? Would he
23 like to have this? Did you --

24 COMMISSIONER FRANKLIN: I have just been handed a
25 copy of this.

1 DIRECTOR KRESS: Okay. I'm sorry.

2 CHAIRPERSON HOOD: Okay, colleagues. With this, do
3 you have any discussion or are we ready to move forward?

4 COMMISSIONER PARSONS: Certainly, Mr. Brodsky, I
5 think, had a fair hearing, and the bottom line is that the
6 recommendation of the Office of Planning and this Commission was
7 not to do what he was requesting of us.

8 I don't see any reason to revisit that because we
9 have a fresh letter in November, and certainly not as he
10 requested, I think, an opportunity to speak to us today.

11 CHAIRPERSON HOOD: Right.

12 COMMISSIONER PARSONS: I think he was
13 misinterpreting today as a public hearing, but I would move we
14 give final approval to the long and arduous task of rezoning Logan
15 Circle.

16 CHAIRPERSON HOOD: I second the motion. Any
17 discussion? Any further discussion?

18 (No response.)

19 CHAIRPERSON HOOD: All those in favor by the usual
20 sign of voting?

21 (Ayes.)

22 CHAIRPERSON HOOD: Any opposition?

23 (No response.)

24 CHAIRPERSON HOOD: So ordered. Staff, could you
25 record the vote?

1 MS. BROWN: Staff, will record the vote as three to
2 zero to adopt Order Number 914. Mr. Parsons, Mr. Hood and Mr.
3 Franklin voting to adopt Order 914. Ms. Mitten and Mr. Holman not
4 --

5 CHAIRPERSON HOOD: Not voting.

6 MS. BROWN: -- not voting, not having participated
7 in the case. Thank you.

8 DIRECTOR KRESS: I would just say, and we often do
9 as staff before you sign this, I wanted to add -- it was left --
10 the draft Order left out the fact of the Proposed Action which
11 happened in July and it should be recorded here, and with your
12 approval, I would propose to add that into the Final Order.

13 CHAIRPERSON HOOD: Colleagues, do we have a general
14 consensus?

15 (Commissioners nod assent.)

16 CHAIRPERSON HOOD: So ordered.

17 Let me just state that the reason I brought that up
18 about the letter was for the simple fact I want to make sure that
19 we addressed everything in our folders before we acted upon it.
20 So, that was basically the issue, and I wanted to make sure it was
21 on the record.

22 As soon as I find my agenda, we'll move on here.

23 (Laughter.)

24 DIRECTOR KRESS: While you're looking for your
25 agenda, I would just like to mention we are submitting things in a

1 different way. I know it appears that it is somewhat perhaps not
2 being as frugal as we might be.

3 But please, we ask for the folders back. I think
4 this is an easy, organized way of finding things and working with
5 them; and to be frugal, if you would just return the folders to
6 us, then you will see them back your way again.

7 COMMISSIONER PARSONS: That means those who don't
8 return the folders --

9 DIRECTOR KRESS: -- won't get them any anymore.

10 (Laughter.)

11 CHAIRPERSON HOOD: Okay. Next, the Consent
12 Calendar, there's none.

13 The Legislative Report, there's none.

14 Litigation, there's none.

15 Correspondence, there's a letter dated December 21,
16 1999 from Mr. Terry Lynch of the Downtown Cluster of
17 Congregations.

18 Ms. Kress?

19 DIRECTOR KRESS: Yes. We have put that on the
20 agenda because it is here for your decision. What we would do if
21 you saw that this should be pursued is that we would refer this
22 letter to O.P. And I don't mean formally. I mean to ask O.P. to
23 look into Mr. Lynch's letter.

24 So, it's your decision as to whether you want to
25 look into this issue by having us ask O.P. to review it for us or

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1 whether you don't feel at this point it is worth everyone's time
2 to be investigating it.

3 COMMISSIONER PARSONS: I'm not sure what he's
4 asking, whether the Zoning Commission should get involved in what
5 are called late-night clubs city-wide or whether he's asking us to
6 look at this area of the city to see if there's too many late-
7 night clubs or what.

8 Is anybody familiar with this issue enough to know
9 what he means? It would be a difficult letter for O.P. to answer.

10 CHAIRPERSON HOOD: In my interpretation, I thought
11 he was talking about the downtown area specifically and wanted to
12 know whether or not it was too many clubs within that radius.
13 That's the way I interpret the letter.

14 Even with that, I think -- personally, I thought
15 maybe that might be a good idea to look into, but I don't know if
16 that's within our purview or whether this Commission even proceed
17 with something of that nature.

18 COMMISSIONER MITTEN: Well, I believe there is a
19 night club zone, but I guess, from the discussion here, it's not a
20 zoning thing. It's probably an ABC thing.

21 COMMISSIONER PARSONS: Yes.

22 COMMISSIONER MITTEN: And I think that's where it
23 appropriately resides.

24 CHAIRPERSON HOOD: But I also can see
25 where it all ties in, because I believe it all ties in together.

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1 COMMISSIONER PARSONS: What I'm trying to figure
2 out is, late-night clubs -- I'm not terribly familiar. Maybe you
3 all are.

4 (Laughter.)

5 Is he suggesting -- or maybe I should shut up at
6 this point or it will form a suggestion -- that we develop a
7 zoning category for late-night clubs? That is, a
8 definition of what that is, and what zones they would be permitted
9 in or what? Because we certainly don't have it in our zoning
10 regulations now as to what one of those is.

11 ABC may, but we don't.

12 COMMISSIONER FRANKLIN: I think it would be useful
13 for the Office of Planning to take Mr. Lynch's letter and get back
14 to us with a report as to what extent, if any, this Commission can
15 address that situation.

16 COMMISSIONER PARSONS: An excellent idea.

17 CHAIRPERSON HOOD: And I would also like to add,
18 maybe if we even send it back to Mr. Lynch and ask him for a
19 little more clarification, if that's okay with you -- okay?

20 DIRECTOR KRESS: I think we maybe begin with the
21 Office of Planning, because they may have certain things they're
22 working on that address some of these issues. And in a few
23 minutes, I'm going to address my discussion with Office of
24 Planning.

25 And so, perhaps this is something to -- I just

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1 wanted to bring it to your attention to start exploring in our
2 ways of working together.

3 CHAIRPERSON HOOD: Okay. Sounds good.

4 Let's move right along. Any further comments?

5 (No response.)

6 CHAIRPERSON HOOD: Let's move right along with our
7 agenda.

8 Ms. Kress?

9 DIRECTOR KRESS: The next item -- and again, I've
10 taken the liberty of not forwarding this to Office of Planning.

11 Normally, before you see these kinds of cases, we
12 have referred it to the Office of Planning and have a report from
13 them.

14 I did not do that for two reasons. One, Office of
15 Planning is very busy with many things we've asked them to do, but
16 there's also the fact that this was the issue for which you only
17 gave an extension for six months. I don't think, as far as Office
18 of Planning is concerned, a lot would have changed within just a
19 couple of months.

20 So, if you wish, we will refer to Office of
21 Planning prior to your discussion in voting, but I thought I'd
22 bring it to you in the circumstance since it is a little unusual
23 from the kinds of -- more unusual than the kinds of extensions
24 that you deal with.

25 In this case -- and it does appear that DHCD, they

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1 did phone me and I suggested they do a letter as well.

2 They suggested to me that they were the ones who
3 needed to complete and resolve things with the applicant and that
4 they needed some more time to do that.

5 So, this request actually originally emanated from
6 DHCD and then was subsequently followed, as you can tell, by the
7 letter from Wilkes, Artis.

8 CHAIRPERSON HOOD: Okay. So, we're not asked to do
9 anything to dispose of this today?

10 DIRECTOR KRESS: You can. I mean, if you feel you
11 need more information, then we can get it.

12 If you feel you can dispose of this today, either
13 affirmatively or negatively, we are not required to have a report
14 from O.P. to do this. That is something we just request.

15 So, you have in front of you what you need to take
16 action if you wish.

17 COMMISSIONER FRANKLIN: Well, Mr. Chairman, as
18 somebody who has always been very skeptical of these extensions, I
19 think this one clearly merits the show of comity to the Department
20 of the District.

21 So I would move that there be an extension to April
22 30th, as requested by the Department of Housing and Community
23 Development.

24 COMMISSIONER PARSONS: Second.

25 CHAIRPERSON HOOD: Okay. It's been moved, and

1 properly and seconded. All those in favor by the usual sign of
2 voting?

3 (Ayes.)

4 CHAIRPERSON HOOD: Any opposition?

5 (No response.)

6 CHAIRPERSON HOOD: Staff, could you record the
7 vote?

8 MS. BROWN: Staff will record the vote as five to
9 zero to extend the Order to April the 30th as requested by DHCD
10 with Mr. Franklin and Mr. Parsons made the second. Correct?

11 CHAIRPERSON HOOD: Right.

12 COMMISSIONER FRANKLIN: I would like to think that
13 our extension for only six months last time around lit a fire
14 under this particular proposal.

15 (Laughter.)

16 DIRECTOR KRESS: From what I heard from DHCD, I
17 think it did.

18 CHAIRPERSON HOOD: Okay. Well, that sounds good.
19 Maybe we can get some of these PUDs moving.

20 Okay. Report Of The Secretary. I believe there
21 will not be any.

22 The Report Of The Director.

23 Ms. Kress?

24 DIRECTOR KRESS: Yes, thank you. I wanted to
25 continue on to -- I thought I had a very productive meeting with

1 Mr. Altman.

2 We reviewed some of the major issues relating to
3 scheduling and our need to coordinate schedules, for not only the
4 Zoning Commission but also for the Board of Zoning Adjustment, in
5 order to expedite and move issues pertaining to Board of Zoning
6 Adjustment and Zoning Commission, but to allow appropriate time
7 for study of the various issues.

8 What was decided was to go back. It turned out
9 that not too many years ago, the Monday -- the first Monday of the
10 month, normally the Zoning Commission meetings are the second
11 Monday of the month, but we have tentatively scheduled the first
12 Monday of the month to meet with the staff of Office of Planning
13 with the top staff of the Zoning Office to review all of the
14 various issues and schedules.

15 I think that we're all feeling that this is the
16 right way to proceed and that this worked years ago and, while we
17 haven't used this mechanism in the last couple of years, I think
18 there was a consensus that returning to this would be very
19 productive and helpful.

20 We did discuss the idea of Zoning Commission
21 members and BZA members being invited. That is somewhat
22 problematic, as we've discussed before, because of the ex parte
23 communications, and that perhaps we should start exploring this as
24 a straight staff meeting with staff to see if that's resolving
25 issues.

1 Then, if not, if there are Zoning Commission issues
2 that you all feel you need to handle with Andy Altman or the staff
3 of Office of Planning, then perhaps those are separate or
4 different meetings.

5 I have had a little discussion with our Corporation
6 Counsel about this as well and it makes everyone more comfortable
7 if we initiate these meetings as staff-to-staff meetings, and see
8 how productive they can be, and then come back if the Zoning
9 Commission members feel that they would like to add on to various
10 meetings.

11 Mr. Altman has left, but you will be seeing him
12 regularly, as you are today, at these once-a-month meetings where
13 you will have the opportunity to talk and chat about any issues.

14 As you noticed, I took the liberty, with the
15 approval of our Chair, of moving the report of the Director of the
16 Office of Planning earlier in the agenda, so that he could come
17 and deal with the issues pertaining to Office of Planning and then
18 leave because, as you know, sometimes our meetings have gone on as
19 late as five and six o'clock.

20 So, for his scheduling purposes, we've put
21 everything together. We've organized our agenda so that the
22 issues pertaining exclusively to Office of Planning are done early
23 on, so that he can plan the rest of his day and attend appropriate
24 meetings.

25 Are there any questions relating to what we're

1 planning with the Office of Planning? I've got a couple on what
2 we're planning with the Office of Planning. Okay.

3 CHAIRPERSON HOOD: Let me just ask. Are you going
4 to be meeting with the Office of Planning like a week before our
5 regular monthly meetings?

6 DIRECTOR KRESS: Basically, we have tentatively
7 scheduled it for the very Monday one week before the Zoning. It
8 also puts us ahead of all the BZA meetings and hearings for the
9 month as well.

10 So, by pretty much doing the first Monday, we will
11 be able to cover everything for both BZA and Zoning Commission.

12 As David Colby said when we were meeting, typically
13 what we're going to be doing is, in the beginning of February,
14 we're going to be talking about what's going on in March and
15 getting the last minute catch-up on the issues for February if
16 there are any changes.

17 So, really, you're planning essentially at least a
18 month, if not two months in advance, and then getting any last
19 minute catch-up with these once-a-month meetings.

20 CHAIRPERSON HOOD: Sounds good. Okay.

21 DIRECTOR KRESS: I would also -- I brought a few
22 things along quickly.

23 Oh, I would just report, unfortunately, Mr. Bastida
24 is still ill. I am informed that it has not to do with his
25 initial surgery or the tumor, but rather that he has picked up,

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1 probably because he's in a weakened condition, one of these flu
2 viruses that has turned into pneumonia; and while we say, only
3 pneumonia in many ways that's much better than the alternative,
4 just to update you on Mr. Bastida.

5 Quickly, I have -- would you mind handing these
6 out?

7 I've brought along today revised strategic plans
8 for your review that also incorporates for the first time,
9 incorporates the financial aspects, because right now starting
10 February, we will be presenting our budgets to the Executive
11 Mayor's offices and then to the City Council.

12 So, I have given you that. I handed one out which
13 was old, and I realized it needed to be updated, so this is now
14 updated through the end of the year.

15 The dark lines is what we have accomplished. The
16 lighter lines are what we have money for and what we intend to
17 accomplish, and the grey lines are what we're still looking for
18 funding for either from OCTO or as an enhanced budget this year.

19 So, again, this is something that you can spend
20 some time looking at, and get back to me personally with your
21 comments.

22 Thirdly, here's the first form. This is
23 representative of how all our forms are going to look in the
24 future. The instructions on the back are pretty much as they are
25 now.

1 We intend to do basically two pages of instructions
2 that get more specific, particularly for members of the community
3 and less experienced people to help them understand how to go
4 about getting their plat and doing the various parts of everything
5 that is going to be required. So, this will turn into a two-
6 pager. The back right now is just one page. That will turn into
7 two pages.

8 Also, we've tried to do things to simplify it, like
9 allowing them to circle variance or special exception with the
10 reference numbers already appropriately there.

11 We're going to -- this is only the first stab.
12 We're going to try to work very hard to make this form more and
13 more simple.

14 CHAIRPERSON HOOD: Okay.

15 DIRECTOR KRESS: The last thing -- I'm sorry. Go
16 ahead.

17 COMMISSIONER HOLMAN: I just wanted to make a
18 little tiny comment. I know how hard it is to put these forms
19 together, but you might consider giving the applicant a little
20 more room to fill in the basis for our relief. So, I'd like to
21 see them fit a three-pronged test into that one.

22 DIRECTOR KRESS: That's an excellent idea, and to
23 ask them on the form to fit in the three-pronged test right on the
24 form.

25 COMMISSIONER HOLMAN: Yes.

1 DIRECTOR KRESS: Since we're talking about going to
2 three pages anyway, I think there will be plenty of room to do
3 that.

4 What I'd like to actually do, since this is for
5 both special exception and variance and there are different tests,
6 is to make one page instructions for a variance and the other page
7 instructions for a special exception.

8 COMMISSIONER HOLMAN: That would be great.

9 CHAIRPERSON HOOD: Also, Ms. Kress, may I just add,
10 when we print the forms, they're not going to be in color, are
11 they?

12 DIRECTOR KRESS: I'd like to, unless you have a
13 problem with that.

14 CHAIRPERSON HOOD: I know color, due to the budget
15 constraints -- and I'm just throwing this out here, but I know
16 that color would cost a lot more than black and white. Why, it
17 looks nicer.

18 DIRECTOR KRESS: It would be nice if we could
19 color-code the forms. If we do them, as you know, in a large
20 enough quantity, the cost differential wouldn't be so large.

21 I actually think, especially for the ones that a
22 lot of people in the community use, it would be good if we had
23 these color-coded differently. So, when someone had one in their
24 hand, they would know immediately, "Oh, I don't have the blue
25 form. I've got the red form. I need the blue form."

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1 I'm not suggesting this necessarily for all of our
2 forms, just for the ones that mostly go into the hands of the
3 community and perhaps people who are less experienced in our
4 processes.

5 CHAIRPERSON HOOD: Okay.

6 DIRECTOR KRESS: Thirdly, there are many issues
7 we're working on right now, but a big one is also the
8 certification issue.

9 We are having a lot of complaints back and forth
10 between DCRA with the self-certification.

11 As you remember, self-certification was something
12 that was really brought on to the Zoning Commission and the Board
13 of Zoning Adjustment through management reform, etcetera.

14 What has happened is is that people are getting
15 stuck going back and forth between ourselves and DCRA. I could
16 say I would be very frustrated if someone came here, and we said,
17 "No, you've got to go to DCRA and they've got to sign off that
18 they're not doing anything, so you can come over and see us." I
19 mean, that's a little ridiculous.

20 Then, people come over here, and they don't know
21 what they're self-certifying to and so we're sending them back
22 there.

23 In the major conversations -- and we have a meeting
24 scheduled tomorrow -- that I have had both with DCRA as well as
25 with our Corporation Counsel and we need some more information yet

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-- is that perhaps this form should be ours and not DCRA's and allow the process to start here as far as the form is concerned.

We've gotten into a little bit of difficulty, because initially we wanted -- and we were advised by our legal counsel -- that we wanted it to start in DCRA because they were the ones who took the responsibility for the Environmental Impact Statement, etcetera, etcetera.

If they started with us, then we might have to take the responsibility for the Environmental Impact Statement, both in asking for the Statement as well as having staff to review and make sure that we have the appropriate responses.

We feel that's becoming less and less of an issue and it appears that it would be better for us to control the self-certification, but, most importantly, what I would do as a part of that is, I would accept -- and I've got to find the right word -- I would accept that certification.

The problem is, we're getting things coming in here with totally wrong certifications. Now, while we say that is the responsibility and fault of the individual architect or lawyer who is doing the certification, I don't like us wasting time on a whole application that's only going to go through us to be turned down at DCRA.

So, what I've talked to Armando about in our Corporation Counsel Office is that, after the form is self-certified, it would come to me and I will either check that we are

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1 accepting it for processing or suggest -- I don't know if I can
2 order them -- or suggest they go back to DCRA, and get a
3 formalized letter and have a consultation with the Zoning
4 Administrator.

5 Where I'm seeing the most problems are where you
6 have a non-conforming use or a non-conforming structure, but then
7 you are getting a variance or a special exception. Those are very
8 confusing and even people who feel they know the codes well, are
9 confused.

10 We certainly don't want to take the job of
11 certifying for people the relief they need, because then they'll
12 go over to DCRA and DCRA will say, "No, they told you wrong over
13 at the Zoning Office. You need what we need."

14 We write the regulations. They interpret them.
15 Then, we are the adjudicatory body, if you will, for variances,
16 special exceptions, appeals, and that's the way the process works.

17 We should not be interpreting our codes for the
18 Zoning Administrator. The Zoning Administrator interprets the
19 codes and then if he makes or she makes a mistake or someone feels
20 that, then they appeal to us.

21 We would be in a bad situation if we made the first
22 interpretation that they did this. The process wouldn't work
23 then.

24 So, I'm sorry I've talked and I know some
25 Commissioners have to leave and I'm sorry I've talked so long, but

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1 that's just to get us off on some of the issues that we're dealing
2 with.

3 I think the self-certification is a major issue
4 that has brought a lot of criticism, consternation, and
5 discussion.

6 So with that, I'll finish my report.

7 CHAIRPERSON HOOD: Thank you, Ms. Kress, for a very
8 thorough report. As Commissioners, we know the work that you all
9 are doing in the office, especially with the limited staff,
10 especially Ms. Stephanie Brown and yourself have done an excellent
11 job with trying to basically hold it by yourselves and we as
12 Commissioners really appreciate it.

13 One of the things I did want to mention to my
14 fellow Commissioners is that we're still looking at training for
15 both the BZA and the Zoning Commission.

16 The BZA last Wednesday, the Chairperson asked that
17 we start this training. I told her that we were moving as
18 expeditiously as possible.

19 We're tentatively looking at probably the 1st of
20 February, I believe?

21 DIRECTOR KRESS: Yes, I'm sorry. I meant to report
22 on that. We're going to do joint training, both for our staff.

23 A lot of our staff does not know the Zoning
24 regulations to the level I feel they really need. They want to
25 learn more, and some of our Board members, particularly new ones.

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1 So, what we're going to do is do a combined
2 training for both Board members, Commission members, anyone who
3 wants to come, and our staff.

4 Tentatively, we're looking at starting beginning in
5 February and doing at least two meetings,
6 two training sessions, a month for a minimum of four months and
7 perhaps more.

8 Again, we'll try to organize it in such a way so as
9 not to waste the Board or Commission members' times who want to
10 come. We'll try to deal with very large issues in one way and
11 then very detailed, subtle issues that the Board or Commission
12 members might not have as much interest in as in other ways.

13 So, we're working right now on scheduling the
14 agenda.

15 CHAIRPERSON HOOD: Okay. Any other comments?

16 (No response.)

17 CHAIRPERSON HOOD: Okay. With that, if everything
18 is in order and we've governed ourselves accordingly, the meeting
19 is adjourned.

20 (Whereupon, the 1095th Meeting of the Zoning
21 Commission was concluded at 2:37 p.m.)