

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

PUBLIC HEARING

+ + + + +

-----: :
 IN THE MATTER OF: :
 :
 Text Amendment to the ANC : Case No.
 Notification Requirements : 10-04
 Under Chapters 30 and 31 :
 of the Zoning Regulations :
 -----: :

Thursday,
May 27, 2010

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

The Public Hearing of Case No. 10-04 by the District of Columbia Zoning Commission convened at 6:30 p.m. in the Office of Zoning Hearing Room at 441 4th Street, N.W., Washington, D.C., 20001, Anthony J. Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson
KONRAD SCHLATER, Vice Chairperson
PETER MAY, Commissioner (NPS)
MICHAEL G. TURNBULL, FAIA, Commissioner (AOC)

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Board of Zoning Adjustment
District of Columbia
CASE NO. Transcript
EXHIBIT NO.null

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER
ARTHUR JACKSON

OFFICE OF THE ATTORNEY GENERAL PRESENT:

JAMISON L. WEINBAUM, ESQ.

The transcript constitutes the minutes from the Public Hearing held on May 27, 2010.

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

2 6:30 p.m.

3 CHAIRMAN HOOD: Good evening,
4 ladies and gentlemen. This is the Public
5 Hearing of the Zoning Commission for the
6 District of Columbia for Thursday, May 27,
7 2010. My name is Anthony Hood.

8 Joining me this evening are Vice
9 Chairman Schlater, Commissioner May and
10 Turnbull. We are also joined by the Office of
11 Zoning staff, Director Weinbaum as well as Ms.
12 Sharon Schellin. Also the Office of Planning
13 staff, Ms. Steingasser.

14 This proceeding is being recorded
15 by a court reporter and is also Webcast live.

16 Accordingly, we must ask you to refrain from
17 any disruptive noises or actions in the
18 hearing room.

19 The subject of this evening's
20 hearing is Zoning Commission Case No. 10-04.
21 This is a request by the Office of Zoning for
22 Text Amendments to the Zoning Regulations to

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1 allow the ANCs to elect to receive the
2 notifications they normally receive via US
3 mail by electronic mail.

4 Notice of today's hearing was
5 published in the DC Register on April 9, 2010.

6 Copies of that announcement are available to
7 my left on the wall near the door.

8 The hearing will be conducted in
9 accordance with provisions of 11 DCMR 3021 as
10 follows: preliminary matters, presentation by
11 the Office of Zoning, reports of other
12 government agencies, report of ANCs,
13 organizations and persons in support,
14 organizations and persons in opposition.

15 The following time constraints will
16 be maintained in this hearing: Office of
17 Zoning, 10 minutes; organizations, 5 minutes;
18 individuals, 3 minutes.

19 The Commission reserves the right
20 to change the time limits for presentations if
21 necessary. Note that no time shall be ceded.

22 Upon coming forward to speak to the

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1 Commission, please give both cards to the
2 reporter sitting to my right before taking a
3 seat at the table.

4 Since we have veterans that are
5 here tonight, I'm going to skip over some of
6 this. I'll just supply it for the record.

7 When you are finished speaking,
8 please turn your microphone off so that your
9 microphone is no longer picking up sound or
10 background noise.

11 To avoid any appearance of the
12 contrary, the Commission requests that persons
13 present not engage members of the Commission
14 in conversation during any recess or at any
15 time. The staff will be available throughout
16 the hearing to discuss procedural questions.

17 Please turn off all beepers and
18 cell phones at this time so as to not disrupt
19 these proceedings.

20 At this time the Commission will
21 consider any preliminary matters.

22 Does the staff have any preliminary

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1 matters?

2 MS. SCHELLIN: No, sir.

3 CHAIRMAN HOOD: Thank you. I think
4 we'll go right to Director Weinbaum.

5 MR. WEINBAUM: Thank you very much,
6 Commissioner Hood. We're going to be sad to
7 see you go after tonight so I'm relishing the
8 moments of your last hearing before us.

9 CHAIRMAN HOOD: That actually makes
10 two of us.

11 MR. WEINBAUM: Well, I'll be very
12 brief this evening as you summed up the issue
13 and I know you guys have materials that you've
14 received.

15 Essentially, the Council in the
16 Budget Support Act of 2010 enacted legislation
17 that authorized the use of electronic mail for
18 notice of applications, public hearing, and
19 actions on all Zoning cases. But only upon
20 written approval from the affected ANCs for
21 this method of service.

22 The idea was that one of our

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1 initiatives that the Office of Zoning put
2 forth for Fiscal Year 2010 was this concept of
3 providing for this form of electronic notice
4 as an initial means of moving towards more of
5 a paperless format, where entities so choose.

6 Here, we are implementing the new
7 legislation and it's necessary to amend the
8 Zoning Regulations to authorize this use of
9 electronic mail for providing the required
10 notices.

11 The notices that will be subject to
12 this type of notice, the electronic mail
13 notice; for the Board of Zoning Adjustment
14 there will be the notice of filing, the notice
15 of hearing, and actual orders. For Zoning
16 Commission matters it'll be the notice of
17 filing, public hearing notice, and the order.

18 So it's important to note that the
19 service upon the ANC of copies of BZA
20 applications or appeals, that's pertinent to
21 another section and not subject to the
22 electronic method of service. As well for

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1 Zoning Commission applications, we're not
2 talking about the actual application. We're
3 talking about notices.

4 We're cognizant of the fact that at
5 this stage applications contain drawings,
6 color copies, and other more voluminous
7 material. Those will still be transmitted via
8 US mail for the current time.

9 The idea here, and I know we've
10 spoken at other times in terms of the Office
11 of Zoning initiatives, is to move towards our
12 electronic case filing and case management
13 system. That system will allow for all
14 documents in the case file to be available
15 electronically. That will be something that
16 everyone, including the ANCs, can pull up that
17 information through our Web site. But for the
18 time being, this is a means of starting with
19 notifications and getting those out
20 electronically.

21 So what we'll do is we'll send a
22 letter to all of the SMDs and ANCs where they

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1 will be able to elect whether or not they want
2 to receive these types of notices by email.
3 If they don't respond or they say no, that's
4 fine. We'll continue to send notice via US
5 mail. So there's nobody who will be forced to
6 choose this system. Basically, it's only if
7 they want to receive it that way.

8 We think it's green. It's
9 certainly easier for us. And it's sort of the
10 first step in our process of moving towards
11 more of a paperless system. Again, it's part
12 of our incremental approach. We think it'll
13 be very beneficial for our system.

14 That's my presentation. I'll take
15 any of your questions.

16 CHAIRMAN HOOD: Thank you very
17 much, Director Weinbaum.

18 Commissioners, any questions,
19 comments?

20 Commissioner May?

21 COMMISSIONER MAY: The requirement
22 with regard to the time of notice, or when the

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1 clock starts ticking in reference to when the
2 electronic mail or paper mail is received, is
3 that another change here?

4 MR. WEINBAUM: I don't believe
5 that's a change in there. I believe the
6 timing is the same.

7 COMMISSIONER MAY: Okay. Well, I
8 didn't think that the timing changed. But
9 there's -- maybe I'm reading the wrong thing.
10 Let me see what it says.

11 I'm looking at the Office of
12 Planning report, and we're not at the Office
13 of Planning yet. But it just says: part of
14 the intent is, clarify the receipt of notice
15 of application by first-class or electronic
16 mail starts the time period for an ANC to
17 review pending Zoning application, and to
18 submit a written report to the reviewing body.
19 That's what I'm talking about.

20 MR. WEINBAUM: Were you reading off
21 of the OP report? I'm just unclear where you
22 were looking at.

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1 COMMISSIONER MAY: Just then, yes.
2 I was reading off the OP report.

3 CHAIRMAN HOOD: Commissioner May,
4 what page are you on?

5 COMMISSIONER MAY: The front page
6 of the OP report. Adding new Sections 3115.4
7 and 3115.5, on page 3 of the notice.

8 MR. WEINBAUM: Yes. I don't
9 believe it changes any of the timing, unless
10 I'm missing something.

11 COMMISSIONER MAY: Okay. But all
12 it says, it's clarifying that the clock starts
13 ticking when the notice -- wait a minute.

14 MS. SCHELLIN: When they get --

15 COMMISSIONER MAY: Hold on a
16 second. I might be looking at the wrong
17 thing.

18 I'm sorry, 3107.1. What changed
19 there?

20 MR. WEINBAUM: In 3107.1, the only
21 thing that changed is that it allows for --
22 it's a new section, I believe. Yes. That's a

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1 new section --

2 COMMISSIONER MAY: Right.

3 MR. WEINBAUM: -- which allows for
4 the election of these notices by electronic
5 mail unless they -- it's going to continue to
6 be first-class mail unless the recipient
7 agrees in writing to receive notifications
8 through electronic mail. That's 3107.1,
9 that's the new section. If I'm answering your
10 question?

11 COMMISSIONER MAY: All right. I'm
12 going to have to read through this again and
13 figure out what my question was. Thank you.

14 MR. WEINBAUM: Okay.

15 COMMISSIONER TURNBULL: Mr. Chair,
16 I just have one -- it's a technology issue.
17 Our agency has just changed to Outlook after
18 having Novell for eons. I've had Outlook on
19 my own personal computer.

20 One of the things I noticed is,
21 sort of getting back to when an ANC receives
22 notice; you can in Outlook request that when

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1 an email is opened that you get a receipt back
2 of it being opened.

3 How would you know that ANC has
4 received it, technically? You know you sent
5 it. But I think in Outlook, you can at least
6 get a receipt back that tells you that you've
7 got it.

8 Would you be asking that?

9 MR. WEINBAUM: No. I think it's
10 the same theory. When you send a piece of
11 mail, we don't send something -- what's that
12 system where you could get a copy?

13 COMMISSIONER TURNBULL: All right.

14 MR. WEINBAUM: It's the same thing.
15 We send things by first-class mail and we
16 don't do a return receipt requested or
17 anything.

18 COMMISSIONER TURNBULL: Okay. So
19 basically once it's sent, it's sent, and
20 that's the date you're working off?

21 MR. WEINBAUM: Yes.

22 COMMISSIONER TURNBULL: Okay.

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1 MR. WEINBAUM: Exactly.

2 CHAIRMAN HOOD: Any other
3 questions?

4 I'm sure periodically as ANCs
5 change every two years, that that list will be
6 updated every two years.

7 MR. WEINBAUM: Absolutely. At
8 least, yes.

9 COMMISSIONER TURNBULL: Just
10 following up on that, if an ANC requests to
11 have it electronically, and let's say in two
12 years or whatever a new ANC comes in, they can
13 then revise it and go back to mail?

14 MR. WEINBAUM: It's personalized
15 for the SMDs so that as there's new SMDs, we
16 will send out that letter asking them if they
17 so elect. That's the idea.

18 COMMISSIONER TURNBULL: Okay. I've
19 got you.

20 CHAIRMAN HOOD: I think that this
21 operation really just shows how the Office of
22 Zoning is moving into the 21st century and

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1 being more efficient, effective, and green.

2 MR. WEINBAUM: Yes.

3 COMMISSIONER TURNBULL: I would
4 concur. I think it's the way to go.

5 CHAIRMAN HOOD: That will give me
6 something to come down to, the next Oversight
7 Hearing in a year or so from now and come down
8 and talk about what you all thinking.

9 MR. WEINBAUM: Good. That would be
10 welcomed.

11 CHAIRMAN HOOD: I'll find out from
12 Commissioner Grant if it works.

13 MR. WEINBAUM: Okay. Terrific.

14 CHAIRMAN HOOD: All right. Let's
15 do this. Any other questions?

16 Let's go to the Office of
17 Planning's report.

18 MR. JACKSON: Good evening, Mr.
19 Chairman.

20 CHAIRMAN HOOD: I'm sorry. Mr.
21 Jackson.

22 MR. JACKSON: Yes.

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1 CHAIRMAN HOOD: Okay. I didn't
2 know.

3 MR. JACKSON: Good evening, Mr.
4 Chairman and members of the Commission.
5 Before you, you have the Office of Planning's
6 report. We can stand on the record. We are
7 available to answer questions, if need be.

8 We just note that this proposal is
9 not inconsistent with the Comprehensive Plan
10 and that it is in accordance with the
11 Expedited Advisory Neighborhood Commission Act
12 of 2009 that was adopted by the District
13 Council in March, as part of the Fiscal Year
14 2010 Budget Support Act of 2009.

15 That concludes our brief summary
16 and we're available to answer questions.

17 CHAIRMAN HOOD: Okay. Thank you
18 very much, Mr. Jackson and Ms. Steingasser.

19 Any questions of the Office of
20 Planning? Not seeing any.

21 This is germane to all ANCs across
22 the city. I see we have the leader for the

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1 ANC office, Mr. Simon. I'm going to ask him
2 to come forward. I'm also going to ask
3 Commissioner Grant from ANC-5A to come
4 forward. And anyone else who is in the
5 audience that would like to testify on like
6 this case, if you can come forward.

7 We will take you both at the same
8 time.

9 We normally go support or
10 opposition but there's so many of you, we'll
11 just go ahead and let you tell us where you
12 are.

13 Mr. Simon, if you don't mind we'll
14 start with Commissioner Grant. Not because
15 she's from Ward 5. Sometimes I get accused of
16 showing Ward 5 favoritism. I can say this,
17 it's my last night.

18 MS. GRANT: All right. Good
19 evening, everyone. My name is Janae Grant.
20 Good evening, Chairman Hood and all those in
21 attendance. I am the Chair for ANC-5A.

22 We did actually vote on this matter

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1 you have before you. Hearing some of the
2 discussion, I will say it was somewhat our
3 understanding that the application, too, was a
4 part of a process. But having heard some of
5 the discussion, it's strictly just a notice.
6 We are still in support of keeping our
7 notification the way it is in terms of getting
8 it via regular mail.

9 I will just say that currently we
10 still have some Commissioners who either get
11 completely boggled down in terms of so much
12 email and/or are not necessarily receiving
13 certain emails. So at this point time, we
14 appreciate the option that we can convert at
15 our discretion, we would continue as is. And
16 currently, this is two or three days from June
17 so we're a couple months out, and then
18 November for reterm. So we're fine with
19 keeping it as is for this year. But we'll
20 definitely continue to share that information
21 for those who are a part of the new selected
22 Commissioners.

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1 That being said, the Commissioners
2 of ANC-5A would like to continue business as
3 usual in terms of receipt of notice of matters
4 that affect the ANC and the SMD. Therefore,
5 the Office of Zoning will continue to provide
6 such notices by first-class mail until a
7 recipient agrees or the Commissioner agrees to
8 go forward via electronic.

9 That being said, we support the
10 text and the option.

11 Finally, why I'm really here is
12 just to express ANC-5A's appreciation for all
13 of the hard work and dedication to our
14 Chairman Anthony Hood.

15 ANC-5A appreciates all that you
16 have done for our ward and city at large
17 through your leadership, dedicated time, and
18 work you have given to the Zoning Commission
19 for the past 12 years. Your guidance and
20 support has thoughtfully benefited our
21 knowledge and awareness of the Zoning process,
22 while advocating and staying active in the

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1 process to make our neighborhoods more
2 liveable.

3 We thank you for the opportunity to
4 respond to this matter and all the many past
5 times where you've advocated on behalf of the
6 ANCs. You will truly be missed not only by 5A
7 but as heard here from the Zoning Commission.

8 Thank you.

9 Again, this was unanimously voted
10 upon at our meeting literally of last night
11 where we had a quorum and this was voted upon.

12 Thank you.

13 CHAIRMAN HOOD: Thank you very
14 much. Hold your seat. I definitely have some
15 comments for you. We're going to hear from
16 Mr. Simon and then we'll ask our questions and
17 our comments.

18 Mr. Simon?

19 MR. SIMON: Thank you, Mr. Hood.
20 My name is Gottlieb Simon. I'm the Executive
21 Director of the Office of Advisory
22 Neighborhood Commissions. I'm here tonight

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1 mainly just to make sure we have established
2 some of the things on the record that in fact
3 we already have.

4 The action before you, the text
5 amendment, is almost completely reiterating
6 what the statute now requires. So there's
7 little issue there.

8 When the Committee last year of the
9 Council was proposing this, I did have a
10 concern about what change, if any, this might
11 have on the information made available to
12 ANCs. I was assured at that time that the
13 Committee's intention was to not in any way
14 diminish or alter the amount of information
15 that the ANCs received, only perhaps to
16 enhance the method of delivery.

17 I spoke to your staff last summer
18 as well, and learned about their interest in
19 being able to move to a more electronic mode
20 of distribution. Again, with the idea that
21 the information made available to ANCs would
22 not be diminished.

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1 However, each time I read the
2 language here I get a little concerned that
3 maybe there was some possibility. So I was
4 pleased to have the opportunity to speak to
5 Mr. Weinbaum again recently and to hear his
6 remarks on the record today that, again,
7 although certain kinds of information will be
8 provided electronically, the applications the
9 Commissions now receive would continue.
10 That's entirely desirable.

11 I also appreciate Chairman Hood's
12 comment that there would be an issue about
13 reestablishing the preferences. I would only
14 add to that, not only might there be an issue
15 as to every two years when a new Commission
16 came on as to what their preference might be,
17 but during the course of the year there might
18 be an issue when a replacement filled the
19 vacancy.

20 It seems to me that the election
21 might want to be held permanent. That is,
22 that you have the right to withdrawal your

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1 preference and change it. And that could go
2 either way, obviously.

3 Those are the main points that I
4 wanted to have an opportunity to bring up.

5 Aside from the fact that I, too,
6 would like to underscore Commissioner Grant's
7 comments and observe that Chairman Hood,
8 you've been very supportive of ensuring the
9 intelligent participation of ANCs in these
10 proceedings. I look forward to perhaps having
11 an opportunity to work with you afterwards,
12 that we continue to enhance the effective
13 participation of ANC before this body. So
14 thank you very much.

15 CHAIRMAN HOOD: Sounds great.

16 Do we have any questions of this
17 panel?

18 I don't have any questions but I
19 want to thank you both for your very nice
20 comments.

21 Mr. Simon, you do a great job. You
22 have a lot of personalities across the city

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1 but you seem to be able to pull it all
2 together, balance it out. I hear so much, so
3 many people say, "I talked to Gottlieb. I
4 understand it now, it feels better, and I'm
5 okay with it." I think we have an example
6 tonight, one of the submissions we have,
7 Exhibit 8. So I want to thank you for all
8 you've done. You've been in that office for
9 some time and you've done a super fantastic
10 job.

11 MR. SIMON: Thank you.

12 CHAIRMAN HOOD: Commissioner Grant,
13 a little history. ANC-5A was the first ANC to
14 support me in front of the Council in 1998.
15 Without that support from Joseph Bowser and
16 some of that group, I probably wouldn't be
17 here today because I sure couldn't get here on
18 my own. I think it was just so befitting that
19 5A helped me in the beginning and came down
20 and said something nice about me at the end.
21 I appreciate your nice comments.

22 And you know, you're a hard worker

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1 too. I don't take that lightly. I watch you
2 in the ward and you're doing a great job.
3 ANC-5A is coming back up to where it used to
4 be and you're doing a great job.

5 Both of you, continue the great job
6 that you are doing. I appreciate you coming
7 down and saying those nice things. I think
8 I'll frame this and put it in my office so
9 when my boss comes in I'll say, "See, somebody
10 says something nice about me."

11 Any other questions or comments,
12 Commissioners?

13 Director Weinbaum, did you want to
14 expound on anything?

15 MR. WEINBAUM: The only thing I was
16 going to say is that, just to respond to what
17 Mr. Simon said, we definitely want a robust
18 system where people can easily elect to
19 receive this notification and then if they so
20 choose to stop receiving it electronically.
21 It's something that we want in the
22 communication we have in terms of staying on

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1 top of who the new Commissioners are.

2 That's kind of a broader effort
3 that our office makes, and is in the process
4 of really trying to improve, to make sure we
5 have the most up-to-date list. I know members
6 of my team have worked with you before, Mr.
7 Simon, on that. So the notice is only one
8 part of ensuring that we have an up-to-date
9 list of all the Commissioners. It's really
10 imperative for all the different things we do
11 here that we know exactly who the
12 Commissioners are and keep that up to date.
13 So we'll continue to work on that with you.

14 CHAIRMAN HOOD: Let me just
15 acknowledge -- as we know, we've already heard
16 Commissioner's Grants comments. We have a
17 letter from her.

18 We also have ANC-6B Chairperson
19 Garrison; we have a letter from him. At his
20 regularly called and properly noticed meeting,
21 May 11, 2010, with a quorum present, ANC-6B
22 voted unanimously to support the text

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1 amendment as outlined.

2 Also Exhibit 8 from Ms. Black, some
3 things are germane and a lot of it is not. We
4 have reviewed this record and we see her
5 comments.

6 It's really clear with the
7 testimony we heard today that this a very
8 flexible process, a very open process. We
9 will improve it if need be, so rest assured.

10 Commissioner Black, you want to
11 come up to the table? Take your time. I was
12 just talking about that letter.

13 MS. GRANT: Sharon, as you were
14 saying, we can start electronically to get
15 emails?

16 MS. SCHELLIN: Yes. If you go to
17 our Web site, the guidelines for submitting
18 filings via email are on our Web site. You
19 can't send it to me directly. There's an
20 actual email address. I think it's
21 zcsubmissions@dc.gov. If it's for the BZA it
22 would be bzsubmissions@dc.gov.

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1 But again, it's post-applications,
2 so obviously not initial applications. It's
3 after a case has been filed. But the
4 guidelines are on our Web site. I believe
5 it's 10 pages or less, no color, and it needs
6 to be a PDF-signed submission. So just check
7 our Web site. Everything is on there for you.

8 CHAIRMAN HOOD: We got the answer
9 but I don't think we heard the question.

10 MS. GRANT: The question was I
11 found out that I could have submitted this
12 testimony via electronically. In the past
13 that wasn't the case.

14 MS. SCHELLIN: It's something new.

15 MR. WEINBAUM: One of our
16 initiatives is allowing people to post
17 application submissions that initially people
18 either had to hand deliver or fax in because
19 we needed an original signature. We've taken
20 that next leap into 1998 and we now allow
21 people to email in PDF their submissions.

22 MS. SCHELLIN: A lot of people

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1 don't have fax machines these days.

2 MR. WEINBAUM: Right. Exactly.

3 MS. GRANT: It has to be PDF?

4 MS. SCHELLIN: Right.

5 MR. WEINBAUM: And it needs an
6 original signature.

7 MS. SCHELLIN: The other thing is
8 please pay attention to the time. If it's
9 before 3:00 p.m. it will be considered
10 received today. But if it's after 3:00 p.m.
11 it will be considered the next day. Because
12 obviously our staff needs to have an
13 opportunity to be able to process it. So like
14 I said, all of the guidelines are clearly
15 stated on our Web site.

16 CHAIRMAN HOOD: Commissioner Black,
17 we'll hear from you. We have your testimony.

18 I think that was a good dialogue. I can't
19 say the comments that were made will ease your
20 tension. But I think you have spoken earlier
21 to Mr. Simon, I believe, so you have a better
22 comfort than what I read here today.

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1 Am I correct or am I incorrect? I
2 may be incorrect. Maybe I'm jumping the gun.

3 Let me let you do your testimony and let me
4 stop trying to predict what's going on.

5 MS. BLACK: Well, it's not that I
6 have a great deal of discomfort. I'm Gale
7 Black. I'm an ANC Commissioner with ANC-4A.
8 I'm here today just speaking individually.

9 As I understand this particular
10 process, this is not intended to change the
11 existing rules. But being a new Commissioner,
12 I went back and I read the Home Rule Charter
13 and I read the responsibilities that we have
14 as an ANC. The more I read, the more
15 questions I had.

16 Since you have the testimony, I'll
17 just kind of go through it superficially and
18 pick up a few points.

19 I did speak today with our Chair.
20 This may come before the ANC at our Tuesday
21 meeting, so we might submit something formally
22 but I'm not sure. But as I understand it, the

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1 ANC is the one that's supposed to be getting
2 the notice. And it has to be due and
3 satisfactory notice, not just a one-line
4 statement. It wasn't clear from this proposal
5 here whether we would actually receive the
6 actual application. So that was one question.

7 Then, the timing of it. It's due
8 notice, but also notice with enough time for
9 us to act as an ANC. We only meet nine times
10 a year and it's on the first Tuesday of the
11 month. No matter how much we try to plan
12 everything, we're dealing with liquor license
13 renewals, people who want to add decks to
14 their houses; everything comes along. So
15 we're trying to put all of that in.

16 The reality is, our ANC doesn't
17 have a lot of reason to interact with the
18 Zoning Commission so we're not quite up to
19 speed or have anybody on board who is scanning
20 all of this for us. I discovered this --
21 well, I was told that we had received a notice
22 a couple of ways. But it really caught my

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1 attention when I was reading it in the DC
2 Register and I just went, "Whoa."

3 The law as I understand it -- I've
4 specified in the testimony that I'm talking
5 about Section 1309.10 and their various parts
6 -- requires that the whole Commission get
7 notice and have access to the documents that
8 you all have, the ones that are necessary and
9 material for us to make our decision.

10 I'm sorry I missed the earlier
11 conversation. I hope that that's still the
12 case, that we will be getting enough
13 information so that we can provide a response
14 that's somewhat intelligent. We think that
15 the time begins to run from the time the ANC
16 received that due notice.

17 In here, it's not clear. It seems
18 to be saying as long as you've been given "a
19 notice," your time begins to run. So who is
20 the notice recipient; when is that time really
21 triggered; what opportunities do we really
22 have to give feedback?

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1 As I said, in here it's spelled
2 out, I think, in great detail by the DC laws
3 already. And so I'm not sure why it's
4 necessary to add all of the rest.

5 I, of course, support the part that
6 requires the written notice to us, so you've
7 got my vote on that. But again, our
8 Commission hasn't had a chance to look at this
9 or to respond.

10 I do have a lot of respect for 6B,
11 so I'm somewhat reassured by their position.
12 But as I said here, this seems to be changing
13 it. And it's taking away our discretion to a
14 point to designate who we want to speak on
15 behalf of the ANC.

16 I'm not sure what Mr. Simon had
17 said. I wish I had heard it. I made the
18 mistake of coming down 4th Street and got
19 caught in traffic, which I had forgotten
20 about.

21 You have the testimony here. I
22 just think that we need to be clear that we

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1 get adequate notice, and that we are not being
2 required to provide more than we currently
3 have to provide in order to take advantage of
4 being an ANC.

5 CHAIRMAN HOOD: Commissioner Black,
6 I'm going to ask Director Weinbaum to answer
7 your questions. I think once he finishes, to
8 go back to the comments I was making earlier,
9 you will leave here with a serious comfort
10 level so we can go ahead and proceed.

11 Director?

12 MR. WEINBAUM: Thank you,
13 Commissioner.

14 Commissioner Black, I'll try to
15 address some of the points you brought up. If
16 I miss any, please let me know.

17 Effectively, this doesn't change
18 anything if ANCs or SMDs don't elect to
19 receive their notice via email. All this is
20 intended to do is provide an option for the
21 ANCs, as well as the SMDs, to receive all of
22 the same notices that they get now via another

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1 means, namely email as opposed to US mail.

2 So nothing in terms of time is
3 changing. No notices are changing. This
4 isn't taking away any notices. It's the exact
5 same notice as we provide now.

6 We're giving the option, if you
7 choose, by sending you a letter to say: you
8 get them now by US mail. Do you want to keep
9 doing that? Disregard this notice. Do you
10 want to start getting them via electronic
11 mail? It's greener, cleaner, all that stuff.

12 You can so choose. Mail it back to us, email
13 it back to us, let us know you want to do
14 that, and then we'll mark it down and start
15 sending you these notices that you already get
16 via electronic mail. If you don't choose
17 that, everything stays absolutely the same.

18 With respect to the applications,
19 those will continue to be sent to you via US
20 mail, and BZA cases and non-Zoning Commissions
21 cases where we don't send the applications.
22 BZA cases are where we send the applications

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1 to the ANCs. Those will come the same way.
2 This is only for notices that we're providing
3 this option right now.

4 Eventually, we'll be moving more
5 towards electronic case filing where all of
6 our cases and all the materials will be
7 available on our Web site. This is an interim
8 step for ANCs to elect for email notice of the
9 notices they already receive. That's the
10 extent of it.

11 MS. BLACK: Okay. Who will be
12 getting that letter?

13 MR. WEINBAUM: If I can respond?
14 We'll send that letter not only to the ANCs,
15 but to each Single Member District. So all
16 300 and some -- Mr. Simon would know the exact
17 number.

18 CHAIRMAN HOOD: Mr. Simon, you want
19 to turn your microphone on.

20 MR. SIMON: Sure. There are 286
21 Single Member Districts. But I think the text
22 of the amendment is that each notice recipient

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1 -- so anyone who is supposed to get a notice,
2 a person or organization entity -- will have
3 the option of electing.

4 MR. WEINBAUM: That's correct.

5 MS. BLACK: So each ANC/SMD is a
6 notice recipient?

7 MR. SIMON: The Commissioner and
8 the Commission of which they are a member,
9 both.

10 MR. WEINBAUM: It's for those where
11 they have an interest in it. It's every time
12 where you would get notice now. Every SMD
13 does not get notice of every single case that
14 comes before the BZA. It's when they're
15 affected that they get the notice.

16 So this is four notices that you
17 would normally receive. You have another
18 means of receiving that notice. It's not
19 expanding or contracting the amount of
20 notices. It's simply another means that you
21 can choose or not choose. It's all about the
22 project and where it's located.

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1 MS. BLACK: Okay. Is there any
2 definition of affected; does this mean if I'm
3 adjacent to?

4 MR. WEINBAUM: It's all what the
5 current definitions are.

6 Mr. Simon, if you want to speak to
7 that? I don't have that exactly in front of
8 me.

9 MR. SIMON: The default definition
10 of affected is if it is in your SMD or in your
11 ANC. However, it's not limited to geography.
12 If you can make a case that there's an
13 upstream or downwind impact effect of a
14 project, more than one ANC can be accorded
15 those rights.

16 CHAIRMAN HOOD: Okay. Ms. Black,
17 you feel a little better about it?

18 MS. BLACK: On that point, yes,
19 sir.

20 CHAIRMAN HOOD: Okay. Good, good.

21 Any other comments, Commissioners?

22 I think this is --

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1 MS. GRANT: I do. I'm actually
2 going through the PUD rewrite. And I want to
3 say that I believe I read that the notice
4 comes -- what, 10 days?

5 It is 40 days; it's being clear?
6 Okay.

7 MR. WEINBAUM: Public hearing
8 notice is 40 days.

9 MS. GRANT: All right. Okay.

10 MS. SCHELLIN: The 10 day notice
11 that you're talking about is Notice of Intent.
12 At least 10 days before they file, they have
13 to file a Notice of Intent. So that may be
14 what you're thinking about. Yes. Before they
15 file with us, they have to currently file a
16 Notice of Intent.

17 CHAIRMAN HOOD: The Zoning
18 Commission had ANCs in mind when we added
19 those 10 days to the 30 days. Normally, it's
20 a 30 day comment period. I remember having
21 this discussion some years back to make sure
22 we give enough time for meetings and

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1 everything. That 10 days was actually with
2 ANCs in mind, so pass the word. All right.

3 Anything else?

4 All right. Commissioners, I think
5 this pretty straight forward.

6 My last motion. I would move to
7 approve Zoning Commission Case No. 10-04 and
8 ask for a second.

9 COMMISSIONER TURNBULL: Second.

10 CHAIRMAN HOOD: It's been moved and
11 properly seconded.

12 Any further discussion?

13 Are you ready for the question?

14 All those in favor, aye?

15 ALL: Aye.

16 CHAIRMAN HOOD: Hearing no
17 opposition.

18 Ms. Schellin, would you record the
19 vote?

20 MS. SCHELLIN: Staff records the
21 vote 4-0-1 to approve proposed action in
22 Zoning Commission Case No. 10-04.

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1 Commissioner Hood moving, Commissioner
2 Turnbull seconding, Commissioners Schlater and
3 May in support, the third mayoral appointee
4 seat vacant/not voting.

5 CHAIRMAN HOOD: Okay. Ms.
6 Schellin, do we have anything else before us?

7 MS. SCHELLIN: No, sir.

8 CHAIRMAN HOOD: With that, this
9 hearing is --

10 MS. SCHELLIN: Actually, Chairman
11 Hood, I would like to confirm that the record
12 is closed.

13 CHAIRMAN HOOD: Yes. The record is
14 closed.

15 MS. SCHELLIN: We are not accepting
16 any additional filings.

17 CHAIRMAN HOOD: Does somebody want
18 something?

19 MS. SCHELLIN: No. I just want to
20 clarify that the record is closed. No
21 additional filings will be received.

22 CHAIRMAN HOOD: The record is

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1 closed.

2 MS. SCHELLIN: Thank you.

3 CHAIRMAN HOOD: Okay. Do we have
4 anything else?

5 MS. SCHELLIN: No, sir.

6 CHAIRMAN HOOD: Okay. With that,
7 this hearing is adjourned. Good night. Thank
8 you.

9 (Whereupon, at 7:10 p.m. the
10 hearing was concluded.)

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