

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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SPECIAL PUBLIC MEETING

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TUESDAY,

NOVEMBER 22, 2005

+ + + + +

The Special Public Meeting convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 1:00 p.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

GEOFFREY H. GRIFFIS	Chairperson
RUTHANNE G. MILLER	Vice-Chairperson
CURTIS ETHERLY, JR.	Board Member
JOHN A. MANN, II	Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

CAROL J. MITTEN	Chairperson
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OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY	Secretary
BEVERLEY BAILEY	Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.

This transcript constitutes the minutes from the Special Public Meeting held on November 22, 2005.

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AGENDA ITEMPAGEWELCOME:

Geoffrey Griffis 3

BANNUM, INC.

APPLICATION NO. 17356: 3

MOTION TO DENY MOTION TO INTERVENE: 7

VOTE TO APPROVE DENIAL OF MOTION: 8

JEFFERSON LLC

APPLICATION NO. 17377: 9

ACTION TAKEN:

Set Down For Hearing on November 29th 9

ADJOURN:

Geoffrey Griffis 10

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

1:08 p.m.

CHAIRPERSON GRIFFIS: Good afternoon, ladies and gentlemen. Let me welcome you all to our afternoon session of the 22nd of November 2005. What is possibly not on the schedule that you have picked up today in the hearing room is a Special Public Meeting that we have set for this afternoon. I'm going to call that to order. It will take us very little time. We have essentially an administrative item to get through and then I will call the afternoon hearing for Case No. 17383.

With that I'm going to dispense with any openings for the Special Public Meeting and ask Mr. Moy and Ms. Bailey, and say a very good afternoon to them, if they would call the case for our attention.

MR. MOY: Yes, sir. Good afternoon, Mr. Chairman and Members of the Board. The first of the two cases for your attention is Application No. 17356. This is the application of Bannum, Inc. If the Board will recall on November 15, 2005 the Board convened and heard testimony on this application. The Board postponed or continued this application to December 20th.

In the interim, the Board also kept the

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1 record open for a filing, which is a motion on behalf
2 of Regina James, for the Board to take up at its
3 Special Public Meeting on November the 22nd and that
4 is in your case file. And the office has received
5 three motions on this filing and Exhibits, I believe,
6 27, 28 and 29. Staff will conclude here unless --

7 CHAIRPERSON GRIFFIS: Excellent. Thank
8 you very much, Mr. Moy, and you're absolutely right.
9 Just one correction. Of course, we didn't hear
10 testimony or get into the aspects of the appeal that
11 was before us, but rather set the postponement
12 schedule, the timing and the presentation.

13 The important aspect was that we had the
14 motion and the request to intervene in the appeal and
15 that was as put forth in Regina James. We had set
16 this for today, Board Members, as you recall, because
17 the representative was not clear on how they were
18 moving to intervene, whether it was on behalf of the
19 entire ANC or whether it was, in fact, by the
20 individual.

21 We have the filing that we had asked for,
22 noted a clarification of Regina James' motion to
23 intervene. I will open it up for discussion from the
24 Board and what is before us is whether we grant
25 intervenor status or not.

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1 I am assuming, and I can be corrected,
2 that this clarification is for an individual and the
3 representation by Mr. Temple of Ms. Regina James as an
4 intervenor and, therefore, we will need to establish
5 whether she meets the threshold test to be established
6 as the intervenor. The ANC, of course, is
7 automatically an intervenor and participant in the
8 appeal. I'll open it up for comment.

9 VICE CHAIR MILLER: Mr. Chairman, I just
10 want to make reference to the regulation that we're
11 operating under, which is 3106.3, which says that the
12 Board should grant party status only if the person
13 requesting party status has clearly demonstrated that
14 the person's interest would likely be more
15 significantly, distinctly or uniquely affected in
16 character or kind by the proposed zoning relief than
17 those of other persons in the general public.

18 My reading of the clarification of Regina
19 James' motion to intervene is that she is asserting
20 grounds for party status on two bases. One is that
21 she was a former party appellant in the related case
22 and, second, that she is an ANC commissioner.

23 CHAIRPERSON GRIFFIS: Agreed.

24 VICE CHAIR MILLER: Looking at the first
25 grounds, she doesn't elaborate how having been a

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1 former party appellant makes her distinctly or
2 uniquely affected in character or kind by the relief
3 that is being sought in this case, as far as I can see
4 in the pleadings, so we're left to speculate on that.

5 CHAIRPERSON GRIFFIS: Okay. I absolutely
6 agree. In fact, each of them are tied in terms of
7 participation and the ANC's concern. And for me the
8 most direct sentence comes at the end of this, the
9 second to last paragraph that says James "seeks by
10 intervention to protect the ANC's interests consistent
11 with your previous ruling."

12 Well, the ANC is a participant in the case
13 and I'm not sure why that makes her uniquely in a
14 situation to hold that level of elements of protecting
15 the ANC's interests.

16 I take it, Ms. Miller, you are not
17 supporting the granting of intervenor status. Is that
18 correct?

19 VICE CHAIR MILLER: Well, that's correct,
20 but I do want to just address her second reason, that
21 she is an ANC commissioner for the affected area. Our
22 regulations provide that the ANC of the affected area
23 is a party as a matter-of-right so that there is no
24 need for a motion to intervene to represent the ANC as
25 a whole, and then the ANC would need to have

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1 authorization to participate.

2 So, for instance, if she was representing
3 the ANC, then I think that we would need to see a
4 resolution or something by the ANC saying that she was
5 representing the ANC as a whole and it doesn't go to
6 her affected Single Member District.

7 CHAIRPERSON GRIFFIS: Indeed.

8 VICE CHAIR MILLER: So, therefore, I would
9 be opposed to granting her party status but, of
10 course, the ANC, if properly authorized, does have
11 party status as a matter-of-right.

12 CHAIRPERSON GRIFFIS: Good. Others'
13 comments? Very well. Not having any other additional
14 comments on that, I would move denial of the
15 intervenor, the motion to intervene by Ms. Regina
16 James, based on that which has been stated and the
17 lack of proving the threshold requirements to
18 establish her as an intervenor. I would ask for a
19 second.

20 BOARD MEMBER MANN: Second.

21 CHAIRPERSON GRIFFIS: Thank you very much,
22 Mr. Mann. Is there additional deliberation on the
23 motion? Comments? Not noting any others then, we
24 have a motion before us that has been seconded. I
25 would ask for all those in favor to signify by saying

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1 aye.

2 ALL: Aye.

3 CHAIRPERSON GRIFFIS: And opposed? Very
4 well. Why don't we record the vote on that motion?

5 COMMISSIONER MITTEN: I just want to be
6 clear. I'm not participating in this case. I haven't
7 been on it.

8 CHAIRPERSON GRIFFIS: Indeed.

9 COMMISSIONER MITTEN: Thank you.

10 CHAIRPERSON GRIFFIS: As we do the roll
11 call, we will make sure that that is stated.

12 MR. MOY: Yes, thank you. The staff would
13 record the vote as 4-0-1. This is on the motion to
14 deny party status on the motion of the Chair, Mr.
15 Griffis, seconded by Mr. Mann. Also in support of the
16 motion, Mr. Etherly and Ms. Miller, the Vice Chair.
17 And we have a Zoning Commission Member not
18 participating on this case.

19 CHAIRPERSON GRIFFIS: Excellent. Thank
20 you very much, Mr. Moy. Just for clarification, I
21 know you said in your opening of this case that we do
22 have other filings, Exhibit 28 and Exhibit 29, not to
23 mention we may have others. Those are not taken up in
24 this proceeding, a Special Public Meeting by the
25 Board, but will be addressed appropriately at the

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1 convening of the appeal which I believe was stated as
2 to be the 20th of December.

3 MR. MOY: That is correct, sir.

4 CHAIRPERSON GRIFFIS: Excellent.
5 Therefore, we do have no other business in that case.
6 Is that correct, Mr. Moy?

7 MR. MOY: We have one very quick one I
8 believe, sir, which is --

9 CHAIRPERSON GRIFFIS: But not in Appeal
10 No. 17356. We can close that and then let's move on
11 to the next and absolutely to the next case. We have
12 another quick decision on Application 17377 as we have
13 a motion to reschedule our decision making. And let's
14 take that up, Board Members, very quickly.

15 As you recall, we did hear this
16 application, Jefferson LLC. The record was not left
17 open for any additional information on it. We were
18 not able to process it in terms of deliberation on the
19 Bench based on the time. We are being requested to
20 set a Special Public Meeting for that, and I would
21 suggest that we do so for the next Tuesday which would
22 be the 29th of November and move ahead with that
23 unless there is any objection from participating Board
24 Members.

25 VICE CHAIR MILLER: No objection.

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1 CHAIRPERSON GRIFFIS: Excellent. Not
2 noting any voiced objection, we'll take it as a
3 consensus to do that. Mr. Moy, why don't we make that
4 be known. Also, given the case, we should let the ANC
5 and other participants know of the change in schedule.

6 MR. MOY: Yes, sir. Staff will take care
7 of that.

8 CHAIRPERSON GRIFFIS: Excellent. Thank
9 you very much. Is there anything else for the Board's
10 attention in this Special Public Meeting today?

11 MR. MOY: No, sir. That will conclude
12 this session.

13 CHAIRPERSON GRIFFIS: Excellent. If that
14 concludes then, why don't I conclude our Special
15 Public Meeting.

16 (Whereupon, the Special Public Meeting was
17 concluded at 1:17 p.m.)

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