

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR MEETING  
1096th MEETING (2nd of 2000)

+ + + + +

MONDAY

FEBRUARY 14, 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, N.W., Washington, D.C., Anthony J.  
Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD	Chairman
CAROL J. MITTEN	Vice Chairperson
HERBERT M. FRANKLIN	Commissioner
KWASI HOLMAN	Commissioner
JOHN G. PARSONS	Commissioner

OFFICE OF ZONING STAFF PRESENT:

Jerrily Kress, Director  
Alberto Bastida, Secretary, ZC  
Stefanie D. Brown, Office of Zoning  
Vincent C. Erondy, Office of Zoning  
Kenneth Kareet, Office of Zoning

OTHER AGENCY STAFF PRESENT:

Andrew Altman, Director, Office of Planning  
Ellen McCarthy, Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

Marie Sansone, Esq.

PRELIMINARY MATTERS

Approval of 1/10/00 Minutes ..... 4

HEARING ACTIONS

Case 00-01 - Yale Laundry Postponement..... 8

Case 98-13 - Map Amendment Syphax Elementary ..... 11

Case 00-01 - Yale Laundry Postponement (cont'd) ..... 15

STATUS REPORTS

Litigation ..... 15

Office of Planning ..... 25

CORRESPONDENCE ..... 33

REPORT OF THE SECRETARY ..... 49

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

1:38 p.m.

CHAIRMAN HOOD: Good afternoon, ladies and gentlemen. This is the regular monthly meeting of the D.C. Zoning Commission. Welcome. Preliminary matters, Mr. Bastida?

MR. BASTIDA: There are no preliminary matters, Mr. Chairman.

CHAIRMAN HOOD: Okay. Action on minutes, Mr. Bastida?

MR. BASTIDA: The minutes of the January 10th meeting were sent to you, and we are requesting approval of those minutes, Mr. Chairman.

CHAIRMAN HOOD: Okay, colleagues, we have perused the minutes and read our minutes previously. Are there any changes or any problems? If not, I would like to entertain a motion.

VICE CHAIRPERSON MITTEN: I would like to make an addition, if I may.

CHAIRMAN HOOD: Sure.

VICE CHAIRPERSON MITTEN: During the Office of Planning status report, I had asked if in addition to the two items that are already listed if Office of Planning could provide a discussion of the process that they were employing in Cases 99-3Z1 and 99-3Z2, specifically regarding the use of consensus groups, the notion of customized zoning for specific sites, and to provide us guidance regarding the desirability of various

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1 alternatives rather than just a preferred recommendation. And at  
2 the time, Mr. Parsons had clarified that I wasn't asking for the  
3 full range of possibilities, but sort of the desirability of  
4 various favorable alternatives that they considered. And I would  
5 like that to be included in the minutes so that we don't lose  
6 track of that.

7 MR. BASTIDA: It would be included in the minutes  
8 if you decide to approve it now -- it would be included in the  
9 minutes.

10 VICE CHAIRPERSON MITTEN: All right.

11 CHAIRMAN HOOD: Commissioner Mitten, I think we  
12 have a question. Is it under V?

13 VICE CHAIRPERSON MITTEN: Yes.

14 MR. BASTIDA: Yes, that would be included.

15 CHAIRMAN HOOD: Okay, colleagues. Are there any  
16 more additions or corrections? If not, I would like to entertain  
17 a motion with the necessary additions and corrections if  
18 necessary.

19 COMMISSIONER HOLMAN: So moved.

20 COMMISSIONER FRANKLIN: Second.

21 CHAIRMAN HOOD: Moved and properly seconded. All  
22 those in favor by using the sign of voting?

23 (Chorus of ayes.)

24 CHAIRMAN HOOD: So ordered. Would you record the  
25 vote?

1 MR. BASTIDA: The staff will record the vote. Mr.  
2 Holman was the one who moved it. Mr. Franklin seconded.  
3 Commissioners Mitten and Parsons and Hood concurred.

4 CHAIRMAN HOOD: Okay. Proposed action? There is  
5 none.

6 VICE CHAIRPERSON MITTEN: Mr. Chairman, can I just  
7 make a note? At our last meeting -- we did not take any action on  
8 the minutes of the previous meeting. And it is my understanding  
9 that we have not approved the minutes of our 12/13/99 meeting.

10 CHAIRMAN HOOD: Mr. Bastida, could you let us know  
11 what happened with our December minutes?

12 MR. BASTIDA: Yes, you are correct. The transcript  
13 was so late, we didn't have the opportunity to provide that, but  
14 you will receive that for next month.

15 VICE CHAIRPERSON MITTEN: Okay, thank you.

16 CHAIRMAN HOOD: So noted. Hearing action, Office  
17 of Planning.

18 MR. BASTIDA: Mr. Chairman, if I may, you have a  
19 letter in front of you requesting from the applicant the  
20 postponement of a setdown in this case. The letter is dated  
21 February --

22 CHAIRMAN HOOD: Okay. I have it.

23 MR. BASTIDA: -- 11th.

24 CHAIRMAN HOOD: I'm sorry. That's my oversight. I  
25 received the letter the other day. And I was looking for it here,

1 and I didn't have it. But we do have a letter for postponement.

2 MR. BASTIDA: The applicant is requesting the  
3 postponement on that case.

4 CHAIRMAN HOOD: Colleagues, do you all have the  
5 letter in front of you from Holland and Knight?

6 MR. BASTIDA: This letter was not received until  
7 Friday afternoon, late afternoon.

8 CHAIRMAN HOOD: Let's take just a minute and look  
9 at the letter, so we can see how we need to proceed.

10 Commissioners, we have in front of us a letter to  
11 postpone the Yale Laundry Limited Partnership's -- Esteemed  
12 Limited Partnership case. How would you like to proceed, or what  
13 is your pleasure?

14 VICE CHAIRPERSON MITTEN: Mr. Chairman?

15 CHAIRMAN HOOD: Yes.

16 VICE CHAIRPERSON MITTEN: I don't have any  
17 objection to postponing the delay in hearing the case regarding  
18 the use of the air space above the alley, but there were several  
19 issues that were raised in the -- you know, in the letters  
20 contained in the file.

21 And I'm kind of disappointed that Office of  
22 Planning isn't here to perhaps advise us about what actions they  
23 might be taking. But there's several issues in a February 11,  
24 2000, letter from Elizabeth Solomon that raise some concerns for  
25 me. And I don't know if anyone else shares those concerns, but I

1 would like to at least refer these items to the Office of  
2 Planning.

3 COMMISSIONER FRANKLIN: I agree, Mr. Chairman. I  
4 think that assuming that this case is not being withdrawn because  
5 the whole project is somehow being radically changed, which I  
6 suspect is not the case. Since those issues have now surfaced, I  
7 think in the interim -- you know, during the course of the delay  
8 -- it might be useful for the Office of Planning to take a look at  
9 these two issues and give us a supplemental report.

10 CHAIRMAN HOOD: Any other comments?

11 MS. KRESS: I was just going to say Mr. Andrew  
12 Altman is here. He is on the phone trying to coordinate with  
13 Ellen. I expect them momentarily to be here, or at least Mr.  
14 Altman. So you may wish to ask him that when he comes back.

15 CHAIRMAN HOOD: The way I think we could -- my  
16 suggestion is that we probably go ahead and move to postpone, and  
17 also just incorporate Ms. Solomon's letter and ask the Office of  
18 Planning to kind of give us some guidance and respond to some of  
19 the issues which Ms. Solomon raised.

20 Any further comments or --

21 VICE CHAIRPERSON MITTEN: Is that in lieu of  
22 raising it with Mr. Altman when he comes in, or --

23 CHAIRMAN HOOD: Well, if you want to table this  
24 whole piece until Mr. Altman comes in, we can do that, if that's  
25 the way the Commission would choose to do it that way.

1                   COMMISSIONER FRANKLIN:   Well, he may have some  
2 information regarding the reasons for this delay.  I don't.  And  
3 my understanding was that the Historic Preservation Review Board  
4 had given conceptual approval for this project.

5                   CHAIRMAN HOOD:  Okay.

6                   COMMISSIONER FRANKLIN:  So I don't know what else,  
7 at this stage of the game, because I don't know nothing about  
8 their procedures they are waiting for.  So I think before we just  
9 simply automatically move on, it might be well to have Mr.  
10 Altman's comments.

11                  CHAIRMAN HOOD:  Okay.  Let's move the agenda.  
12 We'll come back to the air space of Yale Laundry once the Office  
13 of Planning joins us.

14                  MR. BASTIDA:  Mr. Chairman, my understanding is  
15 that the postponement was a unilateral request from the applicant,  
16 and the applicant has stated to me that in the consideration --  
17 HPRB might take certain things into consideration, that it might  
18 make them rethink the project.  And that's why they would request  
19 the postponement.

20                  I don't know if the Office of Planning was informed  
21 about it.

22                  CHAIRMAN HOOD:  Okay.  Well, let's --

23                  MR. BASTIDA:  And that happens Thursday afternoon  
24 and --

25                  CHAIRMAN HOOD:  Right.

1 MR. BASTIDA: -- Friday.

2 CHAIRMAN HOOD: I understand. Upon, though,  
3 Commissioner Mitten's request, and Commissioner Franklin, I'm  
4 going to go ahead and move the agenda. We will come back to that  
5 once we're joined by Office of Planning. But for the time being,  
6 so we won't hold up the agenda, let's move it to final action.

7 (Whereupon, the proceedings in the foregoing matter  
8 went off the record at 1:47 p.m. and went back on  
9 the record at 1:52 p.m.)

10 CHAIRMAN HOOD: Case 98-13, Map Amendment at Syphax  
11 Elementary School. Mr. Bastida?

12 MR. BASTIDA: The staff is requesting your comments  
13 and final approval of this order, the proposed order or the draft  
14 order as you say.

15 CHAIRMAN HOOD: Colleagues, we have the order in  
16 front of us. We have already done the proposed action. This is  
17 coming back now for final action and final review. Are there any  
18 comments or changes?

19 MR. BASTIDA: Mr. Chairman, I should note that we  
20 have received officially NCPC reply to our request for their  
21 review, which is part of the draft order -- for the different  
22 NCPC's on the record.

23 CHAIRMAN HOOD: Okay. And they are saying that  
24 there is no impact?

25 MR. BASTIDA: That is correct, Mr. Chairman.

1 CHAIRMAN HOOD: Okay, colleagues. Again, we have  
2 this in front of us. Commissioner Mitten?

3 VICE CHAIRMAN MITTEN: I just have a question. I  
4 don't know the proper way to handle this. But number 26 in the  
5 findings of fact -- and we had talked about this a bit at our last  
6 meeting about the way in which we would acknowledge this agreement  
7 that Manna has with the Southwest Neighborhood Assembly. Although  
8 we wouldn't make the order contingent on it, I don't know if  
9 having it as a finding of fact is sufficient or if there is some  
10 other inclusion, but I didn't see it in the decision section. And  
11 as I said, I don't know the proper -- or the conclusions of law  
12 section, I am sorry -- I don't know if this is the way that we had  
13 intended to include it by just reference in the findings of fact,  
14 or if there was more.

15 MR. BASTIDA: Could I address that, Mr. Chairman?

16 CHAIRMAN HOOD: Sure, go right ahead.

17 MR. BASTIDA: I called the applicant and in fact  
18 because of the Historic Preservation actions, they have to rework  
19 the agreement with the ANC. And accordingly, there is nothing  
20 signed. Secondly, it appears that the Commission cannot take into  
21 account a map change. In a straight map change, any agreements --  
22 and put it as a part of the record. Because then it would be  
23 legally considered contract zoning. Accordingly, it has been  
24 traditionally omitted from the findings of fact and conclusion and  
25 from the decision, even though it is acknowledged in the finding

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1 of fact.

2 CHAIRMAN HOOD: So what you are saying, Mr.  
3 Bastida, is we don't have any recourse, so there is no need for us  
4 to -- I think it is mentioned, but I don't think legally we can  
5 hold them to it. But we would just hope they would use a good  
6 faith effort to proceed as they have so far stated in the hearing  
7 and also in their testimony with the community.

8 MR. BASTIDA: That is correct. What traditionally  
9 has been done is the applicant, when they have the agreement  
10 signed, they make it part of the record and we acknowledge such an  
11 agreement. But it is usually not addressed in the decision part of  
12 the order.

13 CHAIRMAN HOOD: Okay. Any other comments?

14 COMMISSIONER PARSONS: Mr. Bastida, weren't we made  
15 aware of what was in that agreement?

16 MR. BASTIDA: Yes, but I understood --

17 COMMISSIONER PARSONS: Why wouldn't number 26 then  
18 state what that was? You are absolutely right. We can't put it  
19 in the conclusions, nor can we put it in the decision. But this  
20 goes on and talks more about procedural matters as to what we can  
21 and can't do as opposed to a finding of fact that says there is an  
22 agreement that does such and such.

23 MR. BASTIDA: I would be glad to distill it into  
24 the order. Sure.

25 COMMISSIONER PARSONS: I think we should.

1 COMMISSIONER FRANKLIN: I guess what you have told  
2 us is it should say there is a proposed agreement.

3 MR. BASTIDA: That is correct, and it will be  
4 worded that way.

5 COMMISSIONER PARSONS: Okay.

6 CHAIRMAN HOOD: Okay, any other additions or any  
7 other comments? Are we ready to vote?

8 COMMISSIONER PARSONS: I move approval with the  
9 suggested change to number 26.

10 COMMISSIONER HOLMAN: Second.

11 CHAIRMAN HOOD: It has been moved and properly  
12 seconded. All those in favor?

13 (Chorus of ayes.)

14 CHAIRMAN HOOD: Any opposition?

15

16 (No response.)

17 CHAIRMAN HOOD: So ordered. Staff, would you  
18 record the vote?

19 MR. BASTIDA: The staff would record the vote as 5  
20 to 0, Mr. Parsons moving and Mr. Holman seconded. Ms. Mitten, Mr.  
21 Hood and Mr. Franklin concurring.

22 CHAIRMAN HOOD: Okay, Consent Calendar, none.  
23 Status report, Office of Planning. Are you ready?

24 COMMISSIONER FRANKLIN: Office of Planning has  
25 arrived.

1 CHAIRMAN HOOD: Well, I was trying to give them a  
2 little time to get set. Take your time, we will come back.  
3 Litigation -- oh, I am sorry, legislative report? There is none.  
4 Litigation, Mr. Bastida.

5 MR. BASTIDA: The Union Station venture appeal was  
6 dismissed. That is the one about the refunding of AP's.

7 CHAIRMAN HOOD: Okay. Now, I think we've come to a  
8 point where we need to go back to the Office of Planning, because  
9 everything else is a little more detailed. If Ms. McCarthy and  
10 Mr. Altman are ready, we will -- let me say, there was an issue,  
11 Ms. McCarthy, back on our hearing action dealing with Case 00-01,  
12 use of air space, Yale Laundry.

13 The question was we received a letter from Ms. Beth  
14 Solomon -- I mean, excuse me, Ms. Elizabeth Solomon. And it had  
15 some questions and some situations that needed to be addressed. I  
16 think Commissioner Mitten wanted to pose whether or not some of  
17 those -- first of all, have you seen the letter?

18 MS. McCARTHY: I have.

19 CHAIRMAN HOOD: Okay. And some of the situations  
20 that need to be addressed, could they be addressed by you today?

21 MS. McCARTHY: No. We have asked -- we have been  
22 trying to set up a meeting with Corp. Counsel's office, the Zoning  
23 Administrator, the Historic Preservation Office, and the Office of  
24 Planning, because we want the government to be speaking with one  
25 voice. And there seems to be possibly some differences of opinion

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1 about whether or not the housing requirement applies to the site.

2 CHAIRMAN HOOD: Okay. Commissioner Mitten?

3 VICE CHAIRPERSON MITTEN: There's also another  
4 issue raised about the height of -- the height that's permitted.

5 MS. McCARTHY: Well, the 130-foot height is  
6 permitted throughout the downtown development district.

7 VICE CHAIRPERSON MITTEN: I understand that. I  
8 guess the issue is whether or not that was maybe -- I know there  
9 are people here who participated in setting these regulations  
10 forward, but I'm not sure that that was fully thought out when you  
11 look at the map and you see that what the -- what the combined  
12 provisions allow is 130-foot height up against a zone where the  
13 maximum height is 50 feet.

14 I mean, that's, as far as I know, unprecedented in  
15 the city. And while I understand that's what the text says, I  
16 believe I heard something about avoiding train wrecks over the  
17 weekend. And I want to make sure this isn't one coming at us.

18 MS. McCARTHY: Well, and that's one reason why we  
19 wanted to meet with the Zoning Administrator and the Historic  
20 Preservation Division.

21 But we also have talked about the fact internally  
22 that the designation of the Mount Vernon Historic District up  
23 there means that the Office of Planning should look at whether we  
24 need to change zoning in the Mount Vernon area as well, in light  
25 of the kinds of things that were done with the downtown

1 development district, historic district, and Foggy Bottom, Overlay  
2 District, and others, where we tried to make sure that the zoning  
3 was consistent with the character of the historic area that had  
4 been designated.

5 VICE CHAIRPERSON MITTEN: So is it -- would it be  
6 fair to say that, in the context of the process that's already  
7 underway on this particular project, the large tract review, that  
8 there will be more -- that all of these issues will be explored  
9 before approval is given?

10 MS. McCARTHY: Yes, that is correct.

11 VICE CHAIRPERSON MITTEN: Okay.

12 CHAIRMAN HOOD: Okay. Colleagues, we're back to  
13 the hearing action.

14 First, let me just ask the Office of Planning --  
15 Ms. McCarthy, we're aware of the letter, but we would like from  
16 the -- coming from the Commission to Office of Planning, if we can  
17 address some of the issues that were brought up in Ms. Solomon's  
18 letter.

19 MS. McCARTHY: Certainly.

20 CHAIRMAN HOOD: Okay. Colleagues, we have before  
21 us a request for postponement, and also we wanted to incorporate  
22 the letter from Elizabeth Solomon, also to the Office of Planning,  
23 so all of that can be in detail when it's presented back to this  
24 Commission. So I'd like to obtain a motion to postpone.

25 VICE CHAIRPERSON MITTEN: So moved.

1 CHAIRMAN HOOD: It's moved. Can I get a second?

2 COMMISSIONER FRANKLIN: Second.

3 CHAIRMAN HOOD: Moved and properly seconded. All  
4 those in favor, by the usual sign of voting.

5 (Chorus of ayes.)

6 CHAIRMAN HOOD: Any opposition?

7 (No response.)

8 CHAIRMAN HOOD: Staff, can you record the vote?

9 MR. BASTIDA: It's five to zero. Who is moving it?

10 CHAIRMAN HOOD: Commissioner Mitten.

11 MR. BASTIDA: Commissioner Mitten moved it, and  
12 Commissioner Franklin seconded.

13 CHAIRMAN HOOD: Okay. Thank you.

14 COMMISSIONER PARSONS: Mr. Chairman, this request  
15 is not to a time certain, so I presume that the next time this  
16 will come before us is at the request of the applicant. We didn't  
17 postpone it until next month or two months from now or three  
18 months from now. And it's just a clarification.

19 CHAIRMAN HOOD: Good point. Are we postponing it  
20 indefinitely?

21 COMMISSIONER PARSONS: Yes.

22 CHAIRMAN HOOD: I think we need to put a date on  
23 it.

24 MS. KRESS: That has been a problem in the past,  
25 for us to postpone things indefinitely. I think it would be more

1 helpful if there was some time frame set -- six months, a year,  
2 whatever -- but some definitive time frame, rather than  
3 indefinitely.

4 CHAIRMAN HOOD: Let's try to coordinate that. Let  
5 me ask Office of Planning, what kind of time frame do you think  
6 you could get all parties together and just -- if you can give us  
7 just some type of ballpark.

8 MS. MCCARTHY: I have been able to talk to some  
9 people that we were trying to get hold of for this meeting who had  
10 tomorrow available, but I haven't been able to reach all of the  
11 parties. But I would think that we could certainly, within a  
12 month, straighten out the basic issues of whether, under the  
13 existing zoning -- the Zoning Administrator's interpretation is  
14 correct or not about this project.

15 If we take a look at the situation and feel that we  
16 need to recommend some text changes, or the creation of an  
17 overlay, obviously, you know, then we'd have to devise something,  
18 submit a request for a setdown, do a more detailed report. That  
19 would take, you know, two or three months before it actually came  
20 back to the Commission again.

21 CHAIRMAN HOOD: Okay.

22 COMMISSIONER FRANKLIN: Mr. Chairman, I'm a little  
23 bit confused by this because it seems to me that what we heard  
24 from Mr. Bastida is that this project may be going back to square  
25 one in some respects, which would mean that they would be

1 submitting to us a substantially or significantly changed package  
2 in support of a setdown hearing.

3 And I'm just wondering whether this shouldn't just  
4 simply be taken off the table and not postponed. I mean, I would  
5 be more than happy to hear from Mr. Bastida or Ms. McCarthy about  
6 the status of this project at this point.

7 MR. BASTIDA: How it was explained to me is that  
8 the applicant is not sure what HPRB is going to do, so rather than  
9 having it setdown at this point in time, and then doing a  
10 revision, is they would like to have all of the facts together so  
11 they can either move forward or in -- or revise it, one of the two  
12 ways.

13 The concern that they want a postponement rather  
14 than withdraw it, it was the filing fee. Accordingly, I requested  
15 the letter of postponement so the Commission will have the ability  
16 to postpone it how they would like to do -- in a fashion that they  
17 feel comfortable with.

18 It might not be unreasonable to just postpone it up  
19 to three months and -- since the Office of Planning believes that  
20 they can provide any further information by that time. But it's  
21 up to the Commission to make the decision, what is their pleasure.

22 CHAIRMAN HOOD: Okay. Colleagues, you see what's  
23 in front of us. Any suggestions?

24 COMMISSIONER FRANKLIN: Well, we already voted to  
25 postpone. I guess the question --

1 CHAIRMAN HOOD: Right.

2 COMMISSIONER FRANKLIN: -- is for how long.

3 CHAIRMAN HOOD: On the time. We need to just do an  
4 amendment to that. Keep in mind, we've been accused of -- it's  
5 been said that we handle stuff and drag things out. I would like  
6 to also give a fair chance to the Office of Planning to work with  
7 all parties interested. But we also need to keep in mind that we  
8 need to clear our table.

9 So I don't know. I would be inclined to waive the  
10 fees, but also just take it off our table. Since we've already  
11 voted to postpone, we just need to come up with a three months,  
12 six months -- that's open for discussion.

13 COMMISSIONER HOLMAN: Mr. Chairman, I think maybe  
14 three months might be a reasonable period of time for the issues  
15 to settle out. And I would move that, if it's in order.

16 CHAIRMAN HOOD: Okay. Yes, it's in order. The  
17 friendly amendment has been moved for three months to add to our  
18 postponement amendment. Can we get a second?

19 VICE CHAIRPERSON MITTEN: Actually, just as a point  
20 of order, we already voted on that motion. So this would be like  
21 a replacement motion. We voted on that, and now we're going to  
22 vote on something totally different, as opposed to amending an  
23 earlier motion, because we already voted on that.

24 CHAIRMAN HOOD: Okay. Well, however we need to do  
25 it. I just wanted to make sure that we put it in there that we --

1 COMMISSIONER HOLMAN: I move that we postpone it  
2 for 90 days.

3 CHAIRMAN HOOD: Well, why don't we do this, so we  
4 will be legally -- technically sufficient. Why don't we take the  
5 other motion back off and then incorporate everything in one  
6 motion.

7 COMMISSIONER FRANKLIN: Mr. Holman has made the  
8 motion right here. It's easier than making a second motion.

9 MR. BASTIDA: Yes, it would be easier.

10 CHAIRMAN HOOD: Okay.

11 COMMISSIONER FRANKLIN: Maybe we ought to do it --  
12 rather than 90 days, to a specific date of our meeting that we  
13 will --

14 CHAIRMAN HOOD: And coordinating with Mr. Holman's  
15 motion, we are now -- okay. Can you incorporate that in the  
16 motion?

17 MR. BASTIDA: You said May 8th?

18 COMMISSIONER HOLMAN: Absolutely. May 8th would be  
19 a fine amendment to the motion as -- as I had moved it.

20 CHAIRMAN HOOD: Okay.

21 COMMISSIONER FRANKLIN: Second.

22 CHAIRMAN HOOD: It's been moved and seconded to May  
23 8th. All those in favor?

24 (Chorus of ayes.)

25 CHAIRMAN HOOD: Any opposition?

1 (No response.)

2 CHAIRMAN HOOD: So ordered. Staff, will you record  
3 the vote?

4 MR. BASTIDA: Yes. The staff would record the vote  
5 five to zero, Mr. Holman moving and Mr. Franklin seconded, all the  
6 Commissioners concurring. It will be postponed until May 8th, at  
7 the latest.

8 CHAIRMAN HOOD: Okay. The next -- let's see, we  
9 moved the agenda. Let me see where we are here. Status report,  
10 Office of Planning.

11 MS. MCCARTHY: Mr. Chairman, I have never done one  
12 of these before.

13 CHAIRMAN HOOD: Join the club.

14 MS. MCCARTHY: How much detail would you like me to  
15 go into on these various items?

16 CHAIRMAN HOOD: Unless there are questions, it can  
17 be very brief. We have looked through and we have read it.  
18 Unless any of the Commissioners have any other questions, your  
19 presentation can be very brief.

20 MS. MCCARTHY: Okay. Well, let me just highlight  
21 those that are the most active. With regard to the Woodies site,  
22 we have engaged a consultant to work with the owner of that site  
23 and see if it is possible to come to some agreement so that we  
24 could come back with a text amendment that made sense, or if not  
25 just drop that case, since the Office of Planning is technically

1 listed as the petitioner at this point in time. I think there has  
2 been one meeting between the consultant and the owner of the  
3 building, so it is a little premature to say whether we are going  
4 to be able to come to some consensus on that.

5 We have had a task force looking at that, but it  
6 seemed like getting a development consultant to work in more  
7 detail with the owner was the most promising way to go after that  
8 time.

9 COMMISSIONER FRANKLIN: Could I ask a question, Mr.  
10 Chairman?

11 CHAIRMAN HOOD: Sure.

12 COMMISSIONER FRANKLIN: Are you telling us that the  
13 Office of Planning has engaged a separate consultant to work with  
14 the owner at the expense of the District? A consultant?

15 MR. ALTMAN: Actually, we have engaged a consultant  
16 to work for the Office of Planning to advise us on --

17 COMMISSIONER FRANKLIN: I understand.

18 MR. ALTMAN: On the project, as opposed to working  
19 for the developer. So that we can conduct -- because we want to  
20 bring to you, if this comes forward -- if and when this comes  
21 forward an analysis -- an independent analysis as to whether the  
22 zone change that is being requested is in fact justified, both  
23 economically and from a land use perspective.

24 COMMISSIONER FRANKLIN: I am curious, Mr. Altman,  
25 has the developer now engaged counsel and architectural advice on

1 his proposal?

2 MR. ALTMAN: I don't know if they have engaged  
3 counsel. They have some architectural advice. But to be honest,  
4 we are awaiting a formal proposal from the developer that is more  
5 detailed and more specific than just a request for a zone change.

6 And what we have requested is some very specific detailed  
7 information related to economic justification, the types of  
8 tenants, all of the various things that would be needed, I think,  
9 in order to bring this forward to you.

10 COMMISSIONER FRANKLIN: Well, colleagues, I just  
11 have developed a certain skepticism about this particular  
12 developer. He has appeared once before us without counsel and  
13 without any architectural assistance and doesn't seem to have so  
14 far been willing to expend capital on developing this particular  
15 proposal. My earlier question was really premised on to what  
16 extent we were basically helping him out in this regard. But I am  
17 very concerned about a major site like this being proposed to us  
18 by somebody who seems unwilling to put the resources behind  
19 preparing something that it seems to me is going to have to come  
20 to grips with a very challenging set of issues.

21 CHAIRMAN HOOD: Any other comments?

22 VICE CHAIRMAN MITTEN: Can I just add a thought to  
23 that which is I have concerns too, and they are somewhat different  
24 than yours, Mr. Franklin. What is being requested, as I  
25 understand it, is a map change. So my sense of what the burden is

1 as far as providing architectural drawings and things like that is  
2 different. Because we are not looking at a specific project  
3 really.

4 MR. ALTMAN: Well, the text change is what it --

5 VICE CHAIRMAN MITTEN: Okay. But the amount of  
6 scrutiny and everything that is going into one site, although it  
7 is incredibly important to the city for many reasons, that kind of  
8 scrutiny doesn't go into the other zoning that takes place. And  
9 that is why I asked for the discussion of how this process is  
10 working and whether it is going to be employed in future cases.  
11 Because it is really -- it is just focusing so much on one site to  
12 the exclusion -- you know, arguably every site in the city  
13 deserves this level of scrutiny before zoning is imposed. And it  
14 just concerns me that there is that amount of effort being  
15 expended.

16 COMMISSIONER FRANKLIN: Too much or too little?

17 VICE CHAIRMAN MITTEN: Well, it is just out of  
18 proportion with the other text changes that go forward.

19 CHAIRMAN HOOD: Colleagues, any other comments?  
20 Ms. McCarthy, if you want to finish?

21 MS. MCCARTHY: I guess the other major thing to  
22 bring you up to date on is the Department of Employment Services  
23 site, because that has also been postponed and the Office of  
24 Planning has been able to -- we have a new staff person who is  
25 focusing specifically on the Department of Employment Services

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1 site. So we are not asking for -- we don't have a specific  
2 proposal to bring back to you on that. But it is being actively  
3 studied and the city is preparing a request for proposals for that  
4 site. So obviously whatever the Office of Planning is going to  
5 propose, we will be trying to make sure it is consistent with what  
6 the city is going to be proposing when it entertains bids for the  
7 site in terms of what uses we want to impose on the site.

8 CHAIRMAN HOOD: Ms. McCarthy, I just have a quick  
9 question that just popped up. I am looking at my schedule for  
10 February 17, are we still on for 99-8? I see here in your status  
11 report that you are asking for April -- asking that it be  
12 postponed until April.

13 MS. MCCARTHY: Yes, we are. And we have spoken to  
14 the owner of the property -- I think. We spoke to the owner of  
15 the property and their counsel and explained that we thought it  
16 made no sense to consider that case with regard to transfers of  
17 development rights in isolation from other issues that have been  
18 raised with regard to TDRs, and with the recommendations that are  
19 in the final stages coming to the Commission from the Downtown  
20 Housing Task Force about various ways to provide incentives for  
21 housing in the downtown. So we have proposed that we come back to  
22 the Commission on April 17th for a hearing on that, at which point  
23 in time we could bring back to you a comprehensive look at all of  
24 those downtown housing policies and incentives. I know Mr. Altman  
25 was talking to the property owner just a few minutes ago. Was that

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1 acceptable to them?

2 MR. ALTMAN: Well, they were open to postponement.  
3 The question is going to be whether April 17th. They are calling  
4 me back. But they understood and thought that the approach made  
5 sense. They are simply checking on some other timing issues  
6 related to their project. They are supposed to call me any  
7 minute, but they were very open to not having it and in fact  
8 agreed to a minimum of a 30-day postponement and probably more  
9 than that, so that it would not need to be heard next week. That  
10 much they agreed to and sent a letter. We are just confirming the  
11 April 17th date with them now.

12 CHAIRMAN HOOD: Okay. Any other questions for  
13 Office of Planning, colleagues?

14 COMMISSIONER FRANKLIN: I infer from what Mr.  
15 Altman said that we may not have a hearing on Thursday?

16 CHAIRMAN HOOD: That is exactly the way it looks.  
17 But I still have to come down to read a statement and you all are  
18 welcome because it gets kind of lonely reading a statement to an  
19 empty room. But if you want to come hear me read a statement, you  
20 are all welcome. Mr. Altman, you wanted to say something?

21 MR. ALTMAN: No, that is right. I confirm that.  
22 Yes, there would not be a need for the hearing next week, and they  
23 have sent a letter in to the record --

24 COMMISSIONER FRANKLIN: This week.

25 MR. ALTMAN: This week. I am sorry, this week.

1 That is right.

2 CHAIRMAN HOOD: Let me just say this from my  
3 perspective. I am glad to see that Planning now is taking the lead  
4 role, and I am sure a lot of people agree. I think it has been for  
5 the -- for the time I have been around, it seemed like we always  
6 had no plan. So I am glad to see that Office of Planning is moving  
7 in the direction of working along with applicants and just basic  
8 citizenry. Because planning is very crucial to any development  
9 here in the District of Columbia, especially with the mass that we  
10 have to build with. So we want to continue to commend Office of  
11 Planning to keep on making sure that when they come before the  
12 Commission that there is a plan. With that, any other comments?

13 VICE CHAIRMAN MITTEN: Are we now sort of in the  
14 comment phase of our correspondence? The first item of  
15 correspondence relates to this issue about the scheduling of the -  
16 - so can I --

17 CHAIRMAN HOOD: Let me just move -- let me now move  
18 out of status reports and now move to correspondence. Then,  
19 Commissioner Mitten, you can proceed. Any other questions? Okay,  
20 let's move down to correspondence. Commissioner Mitten?

21 VICE CHAIRMAN MITTEN: I guess I just wanted to put  
22 my oar in the water on the whole issue about this particular case,  
23 which I just want everyone to have my level of understanding of  
24 where the market is, because that is what is driving the urgency  
25 of the request. You know, we are enjoying at the moment a very

1 strong residential market, and it has become increasingly  
2 acceptable to people to live downtown. And that is all good.  
3 Prices are up. The amount of product available for people to  
4 either buy or rent is very limited, so any opportunity that can be  
5 provided is important. And that is also helping to make prices go  
6 up. At the same time, we have almost an equivalent situation in  
7 the commercial market, which is there is limited supply. We are  
8 fortunate that we are back to the price levels of ten years ago  
9 without the oversupply of space. Because of that, rents are up,  
10 prices are up, and so on. So because of the situation with this  
11 particular property, the Mine Workers Building, where it could go  
12 either way -- I mean, there is no guarantee that this is going to  
13 be residential. I just want everyone to appreciate that this is  
14 just not some other developer claiming urgency that doesn't exist.  
15 There is a lot of pressure to make this project go commercial, I  
16 am sure. And so I just want us to be aware of the fact that the  
17 delay heightens the intensity of the likelihood that this could go  
18 commercial.

19 COMMISSIONER FRANKLIN: I would like to reinforce  
20 what Commissioner Mitten has said. I was prepared frankly to --  
21 not withstanding any request of the Office of Planning to go  
22 forward on Thursday with this case. Because I did not see in this  
23 case the -- maybe it is because I am not well educated about it,  
24 but I didn't see the possibility of great adverse effects from a  
25 general policy standpoint of dealing with this particular matter.

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1       Because it is an unusual and innovative approach to historic  
2 preservation and also accords with our general desire to increase  
3 the number of housing units in the central employment area. So now  
4 that I am now advised that the applicant is himself content to  
5 delay, I won't press the point. If they had not been content to  
6 delay, I would have.

7                   CHAIRMAN HOOD: Let's now -- any other comments  
8 colleagues? Correspondence, Mr. Bastida?

9                   MS. KRESS: I am sorry, before you move on, have  
10 you set a date for the continuing hearing?

11                   CHAIRMAN HOOD: Of 99-8?

12                   MS. KRESS: 99-8.

13                   CHAIRMAN HOOD: What I was going to hear from -- I  
14 was going to let Mr. Bastida address the correspondence and then -  
15 - because it kind of ties right in. I was still going to hear  
16 from him on this.

17                   MS. KRESS: I am sorry.

18                   CHAIRMAN HOOD: And then we were going to come to a  
19 firm date, if that is okay.

20                   MS. KRESS: Perfect. I am sorry.

21                   CHAIRMAN HOOD: You can make it very brief, Mr.  
22 Bastida.

23                   MR. BASTIDA: Yes. I talked to the applicant this  
24 morning -- or to the representative of the applicant, and they  
25 have no objection to a postponement provided that the Office of

1 Planning commits to have his report in the office with OZ by April  
2 7, so the hearing on April 17 would go forward. And I understand  
3 that there has been discussion and correspondence between the  
4 applicant representative and the Office of Planning and the Office  
5 of Planning preparing a letter to the Commission stating all the  
6 facts and requesting the postponement. But we have the Director of  
7 the Office of Planning, and he can direct that more specifically  
8 than I can.

9 CHAIRMAN HOOD: Okay. I want to first make sure  
10 that April 7 -- oh 17th.

11 MR. BASTIDA: No, it is April 17. But the  
12 applicant, the only concern is that the Office of Planning will  
13 have its report to the Commission on the 7th, which is the due  
14 date. It is ten calendar days prior to the day of the hearing.

15 CHAIRMAN HOOD: Okay. I believe Office of Planning  
16 will be able to meet that date.

17 COMMISSIONER FRANKLIN: I will be out of the city  
18 on the 17th of April.

19 CHAIRMAN HOOD: Okay, colleagues, let's see --

20 VICE CHAIRMAN MITTEN: Can I just clarify? Aren't  
21 hearings usually on Thursdays and our public meetings on Mondays?  
22 Because the 17th of April is a Monday.

23 CHAIRMAN HOOD: We have hearings on Mondays and  
24 Thursdays. Our general meeting -- our regular monthly meeting is  
25 the second Monday of the month. We generally try not to have a

1 meeting and a hearing, but if it comes up that way, then I guess  
2 we will have to proceed.

3 MR. BASTIDA: The problem is that the Thursday is  
4 Passover or the day before Passover. It is Holy Week. So we  
5 thought to do it on Monday to have the least amount of conflict  
6 possible.

7 COMMISSIONER FRANKLIN: How would Monday the 24th  
8 do?

9 MR. BASTIDA: It is the pleasure of the Commission.  
10 If the Commission wants to have it on the 24th, that is okay.

11 COMMISSIONER FRANKLIN: Well, you can proceed  
12 without me but I would be able to attend on the 24th and not on  
13 the 17th.

14 CHAIRMAN HOOD: Okay, colleagues. Mr. Franklin has  
15 put on the table that the 17th is not good for him and the 24th  
16 is.

17 MS. MCCARTHY: Mr. Chair, I am going to be out of  
18 the country on the 24th.

19 CHAIRMAN HOOD: Okay, Ms. McCarthy is going to be  
20 out of the country on the 24th. The 24th is also bad for me. We  
21 will never have it, I guess.

22 VICE CHAIRMAN MITTEN: Could I make a suggestion,  
23 Mr. Chair? Since Mr. Franklin is as concerned as I am about this  
24 thing moving forward, I think maybe he would be willing to forego  
25 his personal attendance at the meeting to allow us to move

1 forward.

2 COMMISSIONER FRANKLIN: Oh, yes. Sure.

3 Absolutely. I agree.

4 CHAIRMAN HOOD: Okay.

5 COMMISSIONER PARSONS: What would be wrong with  
6 Thursday the 13th, four days earlier?

7 CHAIRMAN HOOD: The 13th has been put on the table.

8 MR. BASTIDA: That -- I would have to check.

9 CHAIRMAN HOOD: Because the Office of Planning  
10 report would be in by the 7th.

11 MR. BASTIDA: I don't think that that would be any  
12 problem. The only concern when I selected the 17th is that your  
13 meeting is on the 11th. So you would have a meeting on Monday and  
14 a hearing on Thursday.

15 CHAIRMAN HOOD: That shouldn't -- personally, I  
16 don't think that is a problem. Colleagues, what do you think? Do  
17 you have any problems with that?

18 VICE CHAIRMAN MITTEN: That is fine.

19 CHAIRMAN HOOD: I mean, we have done that before.

20 MR. BASTIDA: Oh, yes, you have. But I was just  
21 trying to be --

22 COMMISSIONER FRANKLIN: I have a conflict, but I  
23 can rearrange my schedule.

24 CHAIRMAN HOOD: So we can --

25 MR. BASTIDA: But that means that then the Office

1 of Planning would have to provide its report on April 3. Can the  
2 Office of Planning do that?

3 CHAIRMAN HOOD: Okay. They are saying that they can  
4 do that, Ms. McCarthy?

5 MS. MCCARTHY: Yes, we can.

6 CHAIRMAN HOOD: Okay.

7 MR. BASTIDA: Okay. Then you are postponing to  
8 Thursday, April 13th?

9 CHAIRMAN HOOD: Right. Colleagues, can we just do  
10 that by general consensus? Okay, general consensus. The next  
11 correspondence, Mr. Bastida?

12 MR. BASTIDA: Yes. That is a letter from Mr. Lynch  
13 requesting reopening the record and then stating certain facts  
14 about the project. He was missing about the date of the  
15 rescheduled hearing, and accordingly he would like to put those  
16 facts into the record. Since you closed the record, I could not  
17 distribute that letter to you without you reopening the record to  
18 accept that letter. It is up to the Commission to determine what  
19 their pleasure is.

20 MS. KRESS: I would only remind the Commission that  
21 that was a snow day and the offices were closed.

22 CHAIRMAN HOOD: Okay, colleagues. Taking  
23 everything under consideration -- the snow, and also that this may  
24 be able to add some additional information to this case, what is  
25 your pleasure?

1                   COMMISSIONER FRANKLIN: Is this to be done just  
2 simply for Mr. Lynch or for everybody.

3                   MR. BASTIDA: No, the only request we have is for  
4 Mr. Lynch. Nobody else requested -- made such a request.

5                   COMMISSIONER FRANKLIN: Well, they were under the  
6 impression that the record was closed.

7                   MR. BASTIDA: Yes, the record was closed. That is  
8 why I didn't distribute the letter to you, because I couldn't do  
9 so unless you reopened the record. So it is at your pleasure. I  
10 could always return the letter back to Mr. Lynch.

11                   COMMISSIONER FRANKLIN: I do think that we should  
12 be very careful about these kinds of issues. Because once you  
13 start making exceptions, then you will never close records.

14                   COMMISSIONER PARSONS: We better turn the lights  
15 off.

16                   CHAIRMAN HOOD: Do I hear -- Commissioner Mitten?  
17 I am tallying votes.

18                   VICE CHAIRMAN MITTEN: I can go either way.

19                   CHAIRMAN HOOD: I distinctly remember at the  
20 hearing I asked if there was someone from either downtown housing  
21 there or the other group, and no one was in the audience. Taking  
22 into consideration that it was a snow day, but then also taking  
23 into consideration what Mr. Franklin is saying. If we open up the  
24 box now, we will have problems on down the road. I just want to  
25 make sure that we are fair.

1 COMMISSIONER FRANKLIN: I don't know you can -- Mr.  
2 Chairman, I don't know how you can open the record for Mr. Lynch  
3 and not open it for the other group or groups.

4 CHAIRMAN HOOD: But I think Mr. Lynch -- is Mr.  
5 Lynch the only one requesting?

6 MR. BASTIDA: Mr. Chairman, at this point in time,  
7 yes. But remember that your decision is not until next month.

8 CHAIRMAN HOOD: Mr. Holman?

9 COMMISSIONER FRANKLIN: And then we will be asked  
10 to postpone that decision.

11 CHAIRMAN HOOD: Mr. Holman, do you have any  
12 comments or any thoughts?

13 COMMISSIONER HOLMAN: My -- yes. I guess I would  
14 certainly like to see what Mr. Lynch has to offer. But what I do  
15 not want to do is set a precedent that says you did it then, let's  
16 do it again. Because I would like to see some degree of closure  
17 on these issues going forward. So I guess reluctantly, I would  
18 have to say don't reopen it.

19 CHAIRMAN HOOD: Okay. It seems like we -- those of  
20 us who are unsure, it seems like we are outvoted. So I guess,  
21 Commissioner Mitten, if we call for a vote, we would be outvoted  
22 if we wanted to go against. So I guess, Mr. Bastida, if you could  
23 return the letter to Mr. Lynch and just explain to him that the  
24 record was closed.

25 MR. BASTIDA: Yes. I will do so, Mr. Chairman.

1 CHAIRMAN HOOD: Okay. Thank you. The next  
2 correspondence, Mr. Bastida? A letter from Mr. Lindsey Williams  
3 regarding zoning regulation matters and self-certification.

4 MR. BASTIDA: That is correct, Mr. Chairman. You  
5 have a copy of his two letters and a copy of the staff addressing  
6 the concerns of Mr. Williams. I think that they are self-  
7 explanatory, but I would be glad to go further into it if you so  
8 wish.

9 MS. KRESS: I would just add that at our joint  
10 meeting that is to follow this, we will be talking about the self-  
11 certification issue, and it is much more complex than is being  
12 addressed in Mr. Williams' letter and demands some research and  
13 discussion.

14 CHAIRMAN HOOD: My concern is I want to make sure  
15 that we respond to Mr. Lynch, and we will determine how we need to  
16 respond. But also I read where he would be able to assist us --

17 MS. KRESS: Williams. You said Lynch.

18 CHAIRMAN HOOD: Oh, for some reason I have him on  
19 my mind. I don't know. But anyway, Mr. Williams said that he  
20 would assist us with some of the language if needed. But I do  
21 want to make sure, however, that we do respond to Mr. Williams.  
22 But we will discuss that in our joint meeting. But we do need to  
23 respond.

24 The next correspondence is a letter from  
25 Councilperson Kathy Patterson and Mr. Pernell regarding the ANC

1 single member district notification. Mr. Bastida?

2 MR. BASTIDA: The Council member and Mr. Pernell,  
3 which is an ANC Commissioner, are requesting that the single  
4 member district members of the ANC be notified in addition to the  
5 chairman.

6 CHAIRMAN HOOD: That could work two ways. I  
7 personally would have to say that from my perspective, I think  
8 that is probably the way to go. But then in some ANC's, the  
9 single member district person is not the accountable person to the  
10 Commission. They may get the notice and then the full Commission  
11 may not know. So I am just curious as to how it is working out  
12 with the others. But I would -- my suggestion would be right now  
13 that we do two, to the chairman and to the single member districts  
14 for right now until we solve that issue. Because that can work  
15 both ways.

16 MR. BASTIDA: Yes. Well, that is what Council  
17 member Patterson and Commissioner Pernell is requesting, in fact.

18 MS. KRESS: And as you know, there is legislation  
19 pending which may make this a requirement. We just wanted to  
20 bring it to your attention and make a decision because it will  
21 take staff time to do this. This is an additional task. And we  
22 just wanted to bring it before you for your discussion.

23 CHAIRMAN HOOD: Well, let me ask right off, do we  
24 know how the other -- the ABC Board handles it? I believe they  
25 are sending it to the SMD commissioners now.

1 MR. BASTIDA: I understand that the notification of  
2 some of the other boards are more succinct than the ones that the  
3 BZA and the Zoning Commission do.

4 MS. KRESS: Remember, we do have three methods of  
5 notification. The other boards and commissions don't have that.  
6 So we have several ways to notify the community for our meetings.  
7 This would just be an additional one on top of that.

8 CHAIRMAN HOOD: It just seems to be one more step  
9 that we have to take. Because again, my concern is the SMD person  
10 may get it and they are not accountable to the full commission.  
11 And then the chairperson of the full SMD or I mean the full  
12 commission will not be aware. So for right now, my recommendation  
13 would be that we do both.

14 MS. KRESS: I am sorry, your recommendation would  
15 be what? Excuse me?

16 CHAIRMAN HOOD: For the time being, until we come -  
17 - until we find out how the legislation is going to go, that we do  
18 both. But I want to throw this out to the colleagues.  
19 Commissioners?

20 VICE CHAIRMAN MITTEN: When applications come in,  
21 do they -- do the applicants identify what ANC it is in or  
22 anything like that?

23 MS. KRESS: No. And unfortunately, we do not have  
24 a more technological advanced way of doing it. We just look it up  
25 on a map. And basically our staff itself identifies the commission

1 involved, and if it goes to the individual commission, to the  
2 individual commissioner. That would be done manually. It is our  
3 hope that in the future, as our map becomes digitized and  
4 eventually available, that we will be able to coordinate the ANC  
5 overlay with that. But for right now, we are talking about  
6 another step we are doing manually.

7 COMMISSIONER HOLMAN: Mr. Chairman, I have a  
8 question. What -- if we were to adopt this as our policy, what  
9 then would happen if by mistake we chose the wrong single member  
10 district. Would that effectively mean that we hadn't given proper  
11 notice?

12 CHAIRMAN HOOD: And that is why I was saying to the  
13 chair also and to the SMD. I think the problem is the single  
14 member districts are saying that they are not -- their chairs, for  
15 whatever reason, are not letting them know about those notices  
16 that come in. A lot of them -- there are different instances in a  
17 lot of cases. Some people don't even go into the office. I will  
18 be frankly honest. But the case I was thinking to protect  
19 ourselves is we send it to the chair and he now has it. And that  
20 complaint out there about the SMD commissioner not receiving  
21 notice would be satisfied too -- on an interim basis.

22 MS. KRESS: Our regulations call for us to send it  
23 to the chair. That is what our regulations say. So we would need  
24 to continue that no matter what. What we would just be doing is  
25 in addition also sending it to the single member district. I am

1 not proposing, nor could you today make that decision to change  
2 the regulations. You would have to announce that and have  
3 hearings on that. So what we are doing and what you are talking  
4 about doing today is just something nice we will be doing in  
5 addition.

6 CHAIRMAN HOOD: In the time being until the  
7 legislation comes forward. That ANC piece will tell us how we  
8 probably need to proceed and change our regulations. But for right  
9 now as a courtesy, I think that would be advisable. And how long  
10 is that going to last? One or two months.

11 MS. KRESS: And you may decide to keep it forever  
12 depending. But again, we are not officially changing our  
13 regulations. So it is something we are doing as a courtesy.

14 COMMISSIONER FRANKLIN: But Commissioner Holman has  
15 raised an important and pertinent issue. And that is that -- my  
16 preference would be to do this as a matter of courtesy. Because if  
17 it becomes then something that is legally required and an SMD  
18 person says I haven't received it, then you've got an imperfection  
19 and can't go forward with the proceeding. Now one way of handling  
20 that if it comes to that would be to have the regulations state  
21 that the deposit of the notice in the United States mail by a  
22 staff member of the Office of Zoning will constitute sufficient  
23 evidence that the notice has been given. But there are a lot of  
24 people who, for one reason or another, either don't get their mail  
25 or say they don't get their mail, and we can't really have a

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1 situation where we can't go forward with our proceeding on those  
2 bases.

3 MS. KRESS: I agree. And I think the action you are  
4 taking today would not formally change the regulations. And that  
5 in the future should you decide to entertain that, then that would  
6 be part of that discussion.

7 CHAIRMAN HOOD: Okay. So, colleagues, can we  
8 proceed for the time being -- and this is a matter of courtesy, as  
9 we said earlier, that we send it to the chairman, which we have to  
10 do by law, and also send an additional copy to the single member  
11 district commissioners until we also see the outcome of the  
12 legislation that is pending. And then we will come back and  
13 revisit that issue? Can we do that on general consensus? Okay,  
14 thank you.

15 Next is the report of the Secretary, Mr. Bastida.

16 MR. BASTIDA: That is only the reminder of  
17 schedule, which we will have to modify based on the postponement  
18 of the hearing on Thursday to the 13th of April.

19 CHAIRMAN HOOD: Let me just, Mr. Bastida, move the  
20 agenda right quick while you have the floor. Where it says other  
21 business, please bring your calendar -- I don't know why I said  
22 lunch.

23 MR. BASTIDA: Mr. Chairman, that might not be a bad  
24 idea. I am hungry too. No lunch today. I am saying that in the  
25 package is the schedule of the BZA through June, and what I am

1 trying to do is request from all the Commission members to  
2 volunteer to attend all those meetings and hearings if they see  
3 that it will benefit their calendar.

4 CHAIRMAN HOOD: Okay. Let me just say that we need  
5 to -- can we just fill in March for right now right quick?

6 COMMISSIONER PARSONS: I volunteered for March 15  
7 already.

8 CHAIRMAN HOOD: Okay, Mr. Parsons has already  
9 volunteered for March 15, full day. Did you get that, Mr.  
10 Bastida?

11 MR. BASTIDA: Yes, I have it. How about  
12 -- the first depends upon who attended the hearings for that  
13 public meeting in the morning.

14 CHAIRMAN HOOD: So we --

15 MS. KRESS: The appropriate people will be  
16 notified.

17 MR. BASTIDA: Will be notified. But we have the  
18 hearing on the afternoon and they have to come in the afternoon.

19 CHAIRMAN HOOD: The afternoon is where you need  
20 someone. Let's leave that open. Anyone want to volunteer for the  
21 afternoon? If not, I will volunteer for the afternoon.

22 MR. BASTIDA: Okay, Mr. Hood.

23 CHAIRMAN HOOD: Actually, I volunteer for the whole  
24 day. Hopefully, I have some cases in the morning.

25 MR. BASTIDA: Okay. How about the 22nd and the

1 29th?

2 VICE CHAIRMAN MITTEN: I'll take one of those.

3 COMMISSIONER HOLMAN: I'll take one.

4 CHAIRMAN HOOD: Okay. Let's put --

5 COMMISSIONER HOLMAN: I'll take the 22nd.

6 VICE CHAIRMAN MITTEN: I would like to have the --  
7 what did you say? I am sorry?

8 COMMISSIONER HOLMAN: Feel free. I will take the  
9 29th.

10 CHAIRMAN HOOD: Okay. Commissioner Mitten for --

11 MR. BASTIDA: Commissioner Mitten for the 22nd and  
12 Commissioner Holman for the 29th.

13 CHAIRMAN HOOD: Let me just say this. Moving into  
14 April right quickly, because we want to move into our joint  
15 meeting. April 19th, I am already on that case, so I am already  
16 there. On April 26, Commissioner Mitten is on that case. Let me  
17 just move to May.

18 MR. BASTIDA: How about the 5th?

19 CHAIRMAN HOOD: Right. I am just showing you where  
20 we are, so we know where we need to fill in.

21 MR. BASTIDA: Okay, fine.

22 CHAIRMAN HOOD: On May 10th, the Hilton, I am on  
23 that case. I believe that is going to be all day.

24 MR. BASTIDA: Yes, probably, or more. Well, maybe  
25 I spoke -- no, I am just playing. Commissioner Mitten is on the

1 17th. And also I have June 14th, Commissioner Mitten. So we need  
2 to fill in the rest. These are cases that went into extensive  
3 preliminary matters, I believe, and some of them are relatively  
4 new. But, colleagues, if you want to fill in some of the open  
5 spaces.

6 MR. BASTIDA: Can we go back then to April?

7 CHAIRMAN HOOD: April. We are back on April now.

8 MR. BASTIDA: We have the afternoon of the 5th.

9 COMMISSIONER HOLMAN: I'll be doing the 29th and  
10 the 5th.

11 MR. BASTIDA: Only the afternoon -- well, the  
12 afternoon.

13 CHAIRMAN HOOD: It is only the afternoon.

14 MR. BASTIDA: Is that -- you are volunteering, Mr. Holman?

15 COMMISSIONER HOLMAN: No.

16 CHAIRMAN HOOD: Okay, I will tell you what. I will  
17 do the afternoon of the -- well, Mr. Franklin? Can we just work  
18 on April at our March meeting?

19 MR. BASTIDA: Well, the thing is that the March  
20 meeting is after April 5.

21 CHAIRMAN HOOD: The March meeting is after April 5?

22 MR. BASTIDA: I am sorry. No, no, okay. Fine, we  
23 can do it that way. Sorry.

24 CHAIRMAN HOOD: And that way --

25 COMMISSIONER HOLMAN: Y2K.

1 CHAIRMAN HOOD: Okay. Let's proceed that way.  
2 And, colleagues, we have the calendar in front of us. We know what  
3 the open dates are, and let's try and see if we can coincide our  
4 schedules to where we can serve on the BZA.

5 MR. BASTIDA: Could I only recap that really we  
6 need Commissioners for April 5, May 3, and June 7 and 21.

7 CHAIRMAN HOOD: I will take June 7.

8 MS. KRESS: I would just add -- as you know, we  
9 have been having to add additional meetings, and especially for  
10 continued. There may be meetings that are added.

11 CHAIRMAN HOOD: Let me take my name off --

12 MS. KRESS: This may not be the whole universe.

13 CHAIRMAN HOOD: Let me take my name off June 7,  
14 because I don't know what is going to happen with May 10.

15 MR. BASTIDA: Okay.

16 CHAIRMAN HOOD: Good point. Thank you, Ms. Kress.

17 MR. BASTIDA: And also, you have July 5 and July  
18 19th.

19 CHAIRMAN HOOD: So if we can do that. We know what  
20 the days are that are open.

21 MR. BASTIDA: Right.

22 CHAIRMAN HOOD: And we will try to accommodate our  
23 schedules.

24 MR. BASTIDA: We will do that in our March meeting  
25 that is prior to the 5th of April.

1 CHAIRMAN HOOD: Okay. Sounds good.

2 MR. BASTIDA: Thank you, Mr. Chairman.

3 CHAIRMAN HOOD: Thank you. Next, we will end --  
4 not actually. Let me now have our Report of the Director from Ms.  
5 Kress.

6 MS. KRESS: I would say I would like to postpone  
7 that report because most issues will be being brought up in the  
8 upcoming meeting. And rather than be repetitive, let's just move  
9 to the next agenda.

10 CHAIRMAN HOOD: If everything is in order,  
11 colleagues, I will adjourn our regular monthly meeting.

12 (Whereupon, at 2:40 p.m., the regular monthly  
13 meeting was adjourned.)

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