

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

REGULAR MEETING
1103rd MEETING SESSION (9th OF 2000)

+ + + + +

MONDAY
SEPTEMBER 11, 2000

+ + + + +

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

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD	Chairperson
CAROL J. MITTEN	Vice Chairperson
HERBERT M. FRANKLIN	Commissioner
KWASI HOLMAN	Commissioner

OFFICE OF ZONING STAFF PRESENT:

Jerrily R. Kress	Director
Gerald Forsburg	Office of Zoning

OTHER AGENCY STAFF PRESENT:

Andrew Altman	Director, Office of Planning
Steven Cochran	Office of Planning
John Fondersmith	Office of Planning
Ellen McCarthy	Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

Alan Bergstein, Esq.

Page No.

Preliminary Matters4

Status Report, Office of Planning
Office of Planning Monthly Status Report8
Campus Plan Roundtable Summary11

Hearing Action, Office of Planning
Z.C. Case No. 00-01 (Yale Steam Limited
Partnership12
Z.C. Case No. 99-09 (Campus Plan Transfer of
Review Authority to Zoning Commission14

Proposed Action, Office of Zoning
Z.C. Case No. 98-14 (Solar Building 1000 16th
Street)17

Final Action, Ms. Kress
Z.C. Case No. 00-17 (Emergency Rulemaking
Metropolitan Police Department32

Consent Calendar, Ms. Kress
Z.C. Case No. 00-04/98-19 (Minor
Clarification Regarding Request for
Party Status)52

Correspondence, Ms. Kress
Petition from ANC 2F to Amend Chapter 19,
Uptown Arts-Mixed Use Overlay (Arts)
District, (1400 Block fo Church Street
to R-5-B)54
Petition from ANC 3G to Amend the Zoning Map
for the east side of Connecticut Avenue N.W.
between Jocelyn Street and Nebraska Avenue
from R-5-D to R-354

Report of the Director, Ms. Kress
Amendments and Editorial Revisions to 11 DCMR56

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

1:33 p.m.

CHAIRPERSON HOOD: Good afternoon, ladies and gentlemen. This is the regular monthly meeting of the D.C. Zoning Commission, Monday, September 11, 2000, at 1:33.

Preliminary matters, do you have any preliminary matters, Ms. Kress?

MS. KRESS: No, I do not, but I believe you do.

CHAIRPERSON HOOD: Yes, I have a few preliminary matters.

One, colleagues, for those who are in the audience who are waiting for us to deliberate or discuss the Kennedy-Warren case, because of Mr. Parsons absence, who was one of the original members to vote in the affirmative on this case, we will delay discussion of this case and proceeding with the Kennedy-Warren case until our October meeting.

Next, colleagues, if we can come to a consensus, I think that the campus plan issue should have been on the hearing action. It was omitted on our agenda, and at this time I would like to move it to the hearing action.

MS. KRESS: Is there a second?

COMMISSIONER FRANKLIN: Second.

MS. KRESS: Any further discussion?

CHAIRPERSON HOOD: Moved and properly seconded. All those in favor use the sign of voting.

1 (Ayes.)

2 CHAIRPERSON HOOD: Any opposition?

3 So ordered.

4 Staff, would you record that vote.

5 MS. KRESS: Record the vote as 4/0. The maker of
6 the motion Commissioner Hood, and the seconder Commissioner
7 Franklin.

8 CHAIRPERSON HOOD: Okay.

9 I believe we have everything in order as far as
10 preliminary matters. Again, those who are here for the Kennedy-
11 Warren, I would like to apologize for any inconvenience.

12 Moving right along with our agenda, Action on
13 Minutes, Ms. Kress?

14 MS. KRESS: You have two minutes, I believe, in your
15 packet, and I would ask that we have any comments and that the
16 minutes be moved and approved.

17 CHAIRPERSON HOOD: Colleagues, I would like to deal
18 with the June minutes first. Any discussion?

19 COMMISSIONER MITTEN: I would just like to say that
20 we had voted at our July meeting to approve the minutes of June
21 12th, and I think maybe the reason we have another copy is because
22 there were extensive corrections to it.

23 MS. KRESS: Oh, thank you.

24 COMMISSIONER MITTEN: So, we don't need to vote on
25 this again.

1 MS. KRESS: Thank you.

2 Are the corrections sufficient, Commissioner
3 Mitten?

4 COMMISSIONER MITTEN: Yes, to my reading anyway.

5 CHAIRPERSON HOOD: Okay, I thought everything was in
6 order too, so Commissioner Mitten is recommending we not vote on
7 vote again on the minutes. Basically, it was probably put back in
8 for the necessary corrections that needed to be made at our last
9 meeting.

10 Next, I would like for us to take up the July 10,
11 2000 minutes. Any questions, comments, any corrections?

12 COMMISSIONER MITTEN: I have a correction.

13 CHAIRPERSON HOOD: Sure.

14 COMMISSIONER MITTEN: Mr. Franklin was not present,
15 and he s listed under II as present, and under Hearing Action, No.
16 6 on page three, when we took up the Yale Steam Limited
17 Partnership No. 1 is not correct. It was really just, you know,
18 we had been deferring that for a while, and it was just an
19 additional deferral. I don t think there was any presentation
20 made of that case, so I would recommend deleting that.

21 CHAIRPERSON HOOD: Okay.

22 Ms. Kress, if we could check the record and make
23 sure that Commissioner Mitten s comments are correct, and then we
24 will make the additional changes that need to be made.

25 MS. KRESS: Absolutely. Yes.

1 CHAIRPERSON HOOD: Any other comments, colleagues,
2 on the July minutes?

3 Hearing none, I d like to obtain a motion. I make
4 a motion that we accept the July 10, 2000 minutes with the
5 necessary corrections.

6 COMMISSIONER HOLMAN: Second.

7 CHAIRPERSON HOOD: It has been moved and properly
8 seconded, all those in favor by using the sign of voting?

9 (Ayes.)

10 CHAIRPERSON HOOD: Any opposition?

11 So ordered.

12 COMMISSIONER FRANKLIN: I must abstain, of course,
13 Mr. Chairman.

14 CHAIRPERSON HOOD: Okay, we have one abstention.

15 COMMISSIONER FRANKLIN: Although I was present in
16 spirit.

17 CHAIRPERSON HOOD: Okay, Mr. Franklin was here in
18 spirit.

19 Ms. Kress could you record the vote?

20 MS. KRESS: I will record the vote as three in
21 favor, one abstention, motion made by Commissioner Hood and
22 seconded by Commissioner Holman.

23 CHAIRPERSON HOOD: Okay, let s move right along.

24 Our Status Report, the Office of Planning.

25 MS. KRESS: That should be also in front of you in

1 the folder.

2 CHAIRPERSON HOOD: Okay.

3 MS. McCARTHY: Mr. Chairman, how would you like us
4 to you have our report in front of you, the Status Report from
5 the Office of Planning on Pending Zoning Cases, do you want to
6 just ask questions about those you are most concerned about, you
7 know, do you want me to talk about the ones that are coming up?

8 CHAIRPERSON HOOD: Okay, I didn't want to take any
9 time away from the Office of Planning, but we can do it this way.

10 Colleagues, if you have any questions about the Office of
11 Planning report, any specific cases, we can, in turn, use this
12 time to ask the Office of Planning at this point in time.

13 Well, let me say this to the Office of Planning, if
14 you have something general you wanted to talk about you could at
15 this time, if not, we will proceed on because we do have the
16 Status Report, which is a new way I don't know if this is this
17 being provided to the public?

18 MS. KRESS: Our record is open and then can get
19 copies of this. I would assume that the Office of Planning
20 doesn't mind.

21 CHAIRPERSON HOOD: Okay.

22 MS. KRESS: Is that correct?

23 MS. McCARTHY: Oh, for sure.

24 Actually, yeah, we've had some discussions with the
25 staff in the Office of Zoning about getting this posted on the web

1 site, and we ll be working on formatting and working with Nymbia
2 to make that happen.

3 CHAIRPERSON HOOD: Okay.

4 I don t necessarily have any questions, but I will
5 say that this Status Report is very detailed. It shows exactly
6 where we are with each specific case, what s going on, what the
7 issues are, and where the Office of Planning is how they are
8 dealing with it, and where we are going, and how much time they
9 need, and it s very detailed. So, again, I hope we can continue
10 this, and that s any other questions?

11 MS. McCARTHY: We have incorporated your
12 suggestions, Mr. Chairman, about putting the or, I believe it
13 was Ms. Mitten s suggestions, about putting the date as a footer
14 on all the pages so it s easier to tell what specific report we
15 are talking about.

16 CHAIRPERSON HOOD: Exactly.

17 Commissioner Franklin?

18 COMMISSIONER FRANKLIN: I have just a minor thing.
19 It would be always hopeful, and I know it s been done except in
20 one case, to give us the name of the property instead of just the
21 square number and a Zoning Commission number.

22 MS. McCARTHY: Oh, okay.

23 COMMISSIONER FRANKLIN: Because I tend to remember
24 them by their names rather than their numbers.

25 MS. McCARTHY: Good idea. We can do that. It would

1 probably make sense for since we'd like this to be useful to
2 everybody, to have the address, and the name of the property, and
3 the square number on there, so however people know it, it will be
4 easier for them to find it.

5 COMMISSIONER FRANKLIN: Thank you.

6 CHAIRPERSON HOOD: Also, I would like, Ms. Kress, if
7 anyone requests a copy of this in the audience today, who does not
8 know exactly what we are speaking in terms of, I would like for us
9 to make copies available at the close of this meeting.

10 MS. KRESS: Absolutely.

11 CHAIRPERSON HOOD: Okay.

12 Next, we'll move right on with our agenda. We have
13 Hearing Action, Office of Planning.

14 MS. KRESS: I'm sorry, did you want, also under the
15 Office of Planning was the Campus Plan Roundtable Summary, and I
16 just wanted to note that the two reports, both the Summary of the
17 Roundtable and the Office of Planning's Proposed Next Steps and
18 Action are in front of you. They weren't received until Friday so
19 we were not able to get them to you before, but I wanted to make
20 sure that everyone knew that they were in front of you.

21 CHAIRPERSON HOOD: Thank you, Ms. Kress.

22 Also in the Office of Planning for the Hearing
23 Action, I don't know if you all were present at the time when I
24 mentioned that the hearing action for the campus plans also we
25 have voted to put that on our agenda, so we will just have that as

1 alphabet B, Campus Plans.

2 So again, we are back to the Hearing Action, Zoning
3 Commission Case No. 00-01, Yale Steam Limited Partnerships, Office
4 of Planning.

5 MS. KRESS: There is a letter that was received that
6 should be in your packet in front of them or sent out to them, in
7 front of them, requesting a continuance.

8 CHAIRPERSON HOOD: Oh, okay.

9 MS. KRESS: I mean a postponement.

10 CHAIRPERSON HOOD: Well, forgive me, I haven t had a
11 chance to read that letter. That letter is important. It s in
12 the packet, Ms. Kress?

13 MS. KRESS: Yes, it should be right in front of you
14 in the folder that was handed to you today, or is in front of you.

15 CHAIRPERSON HOOD: Colleagues, has anyone had a
16 chance to read this letter? You can elaborate right quick.

17 COMMISSIONER MITTEN: They are waiting for a
18 decision by the Mayor s agent regarding a subdivision request, and
19 until they receive the decision they are requesting a
20 postponement, but they are confident that they will have the
21 decision by October because it s required by law, so they are
22 requesting further postponement until October.

23 CHAIRPERSON HOOD: Okay.

24 Colleagues, due to the recent developments of
25 asking for a postponement, has everyone been contacted, Ms. Kress,

1 all parties?

2 MS. KRESS: Yes, we were aware, and to my knowledge
3 everyone has been notified that the letter was coming, and it was
4 just received.

5 CHAIRPERSON HOOD: And, no one had a problem,
6 everything was all parties agreed, had no problems?

7 MS. KRESS: Yes. Yes, sir.

8 CHAIRPERSON HOOD: Okay.

9 With that, colleagues, I d just like by general
10 consensus, I believe we can do it by general consensus, to
11 postpone this one. When do they want it postponed, until when?

12 MS. KRESS: Until your next meeting.

13 CHAIRPERSON HOOD: To the October meeting.

14 Colleagues, if there s not a problem for those of
15 us who have had a chance to read the letter from Mr. Briggs, that
16 we postpone Zoning Commission Case

17 MS. KRESS: 00-01.

18 CHAIRPERSON HOOD: 00 let me see where I am
19 here, okay, I m sorry, Zoning Commission Case No. 00-01, Yale
20 Steam Limited Partnership, general consensus is no problems, we ll
21 do that at the October meeting.

22 Okay, next, moving right along with our agenda,
23 Hearing Action, Campus Plans, Office of Planning.

24 MS. McCARTHY: Mr. Chair, you have before you both a
25 summary of the roundtable that was held jointly by the Zoning

1 Commission and the Board of Zoning Adjustment on Campus Plan
2 Issues, and then you have a report from the Office of Planning
3 that recommends setting down a change in the jurisdiction of
4 Campus Plans from the Zoning Commission from the Board of Zoning
5 Adjustment to the Zoning Commission.

6 Mr. Fondersmith is prepared to go through the
7 Campus Roundtable Summary if you want, but considering how many
8 hours it lasted before probably not.

9 COMMISSIONER FRANKLIN: We were here.

10 CHAIRPERSON HOOD: Let me just say that the
11 information has been in front of us. We have read it. We re just
12 basically now ready to take some sort of action. I keep going back
13 to the comments of my colleague, Mr. Parsons, at that summary
14 hearing, he said that ten years later, they had a hearing before,
15 ten years later they were in the same position they were in. This
16 Commission is committed to moving forward and making improvements
17 for the best interest of the City, so we are going to start, as of
18 today hopefully, only one vote, but to start doing something in
19 dealing with the Campus Plans.

20 So, colleagues, I wanted to open that up for
21 discussion. Any discussion or can I get a motion?

22 COMMISSIONER HOLMAN: I ll make a motion, Mr.
23 Chairman.

24 CHAIRPERSON HOOD: Okay.

25 COMMISSIONER HOLMAN: I move that the Zoning

1 Commission set down for public hearing and give notice of proposed
2 rulemaking with respect to a proposed rule that would transfer the
3 review of Campus Plans and all future processing under such plans
4 from the Board of Zoning Adjustment to the Zoning Commission. The
5 text of the proposed rule shall provide that the transfer of the
6 Campus Plan approval authority does not apply to pending campus
7 plan applications which have been or are now being heard by the
8 Board of Zoning Adjustment as of the effective date of this rule.

9 However, all requests for further processing under any approved
10 Campus Plan shall be heard by the Zoning Commission, regardless of
11 when the plan was adopted.

12 CHAIRPERSON HOOD: Thank you, Commissioner Holman.
13 I won't ask you to repeat it, if that's okay.

14 COMMISSIONER HOLMAN: I'm ready.

15 CHAIRPERSON HOOD: It's been moved, can I get a
16 second?

17 COMMISSIONER MITTEN: Second.

18 CHAIRPERSON HOOD: It's moved and properly seconded,
19 all those in favor use the sign of voting.

20 COMMISSIONER MITTEN: Could I just

21 CHAIRPERSON HOOD: Discussion?

22 COMMISSIONER MITTEN: yes, just offer one maybe
23 additional thought, so I would propose this as an amendment, to
24 include that the text of the proposed rule also include the
25 procedures that will be followed by the Zoning Commission in

1 hearing Campus Plans.

2 COMMISSIONER HOLMAN: I have no problem with that.

3 CHAIRPERSON HOOD: Okay. It s been accepted.

4 Any other comments or discussion?

5 Okay, it s been moved and seconded, all those in
6 favor by using the sign of voting.

7 (Ayes.)

8 CHAIRPERSON HOOD: Any opposition?

9 So ordered.

10 Madam Chair, would you I mean, I m sorry, I m
11 thinking of old times, I m the Chair Ms. Kress, would you record
12 the vote. Also, do we have a proxy for Mr. Parsons?

13 MS. KRESS: Yes, we do, we have a proxy from
14 Commissioner Parsons, so that makes the vote 5/0, motion made by
15 Commissioner Holman, seconded by Commissioner Mitten, and as
16 amended.

17 CHAIRPERSON HOOD: Okay, thank you.

18 Let s move right along with our agenda. Proposed
19 Action. Zoning Commission Case No. 98-14, the Solar Building,
20 1000 16th Street, the Office of Zoning.

21 First, I would ask I would just put on the record
22 that Commissioner Mitten is not participating in this case because
23 of previous involvement with this case.

24 MS. KRESS: And, I would also say that there is a
25 proxy here this afternoon for Commissioner Parsons.

1 CHAIRPERSON HOOD: And so, we have a total of four
2 members.

3 Commissioner Mitten?

4 COMMISSIONER MITTEN: I would just ask to be
5 excused, so that I don't have any influence of any kind over your
6 deliberations.

7 CHAIRPERSON HOOD: Okay, Commissioner Mitten is
8 going to excuse herself from the room. Let's just not forget to
9 call her back once we finish.

10 Okay, Ms. Kress.

11 MS. KRESS: The cases before you today for your
12 proposed action, we do have here today copies of the full record
13 should any questions occur during your deliberations.

14 CHAIRPERSON HOOD: I have one question, Ms. Kress. I
15 notice that in one of the submissions, this is from Mr. Foines, it
16 spoke about different plans. Do we have a set of concrete plans,
17 do we know exactly which plans I understand from his letter that
18 two different sets of plans have come forward. What is in the
19 record?

20 MS. KRESS: Let us look. You might continue
21 deliberation and let me be accurate in responding to that.

22 CHAIRPERSON HOOD: Okay.

23 Okay, colleagues, any other comments? I see Mr.
24 Franklin has both sets, it looks like.

25 COMMISSIONER FRANKLIN: I have the plans that we

1 looked at last time we discussed this project, and then I have the
2 plans that have been submitted in something called a Post-Hearing
3 Submission, which is undated. I would like to, you know, request
4 of counsel on matters of plans that they instruct the architects
5 in every instance to put a date on whatever plans are presented to
6 the commission. It s very, very difficult in going through a lot
7 of paperwork to determine which plan succeeds which plan without a
8 date on each page to indicate well, I guess there is a date down
9 here of May 25, but you have to have a magnifying glass to see it.

10 And, on the Post-Hearing Plans that have been
11 submitted, I don t see any date at all.

12 COMMISSIONER HOLMAN: I see a date stamp of July 7th
13 at 4:00 p.m., in the bottom right-hand corner.

14 MS. KRESS: On the front page only.

15 COMMISSIONER HOLMAN: On the front page.

16 COMMISSIONER FRANKLIN: Yes, but that doesn t tell
17 you the date of the plan, it just tells you

18 COMMISSIONER HOLMAN: I understand.

19 COMMISSIONER FRANKLIN: when they were received.

20 In any event, I had a number of reservations about
21 the previous design, primarily, of the 16th Street elevation, and I
22 believe that the new plans are responsive to those concerns. The
23 building does have kind of, as I said myself, a bilingual
24 character to it. It speaks to both K Street and 16th Street.

25 There is a problem, though, and I don t know

1 whether the Office of Planning has had an opportunity to review
2 these plans. Do we have any comments at all from the Office of
3 Planning?

4 MR. COCHRAN: Yes. With respect to the letter dated
5 July 21, I've had the opportunity to review both the May and the
6 post-hearing drawings, and other than the response to Mr.
7 Franklin's comments about materials along the 16th Street facade,
8 there is no change to the massing of the building between the May
9 and the July drawings. I've actually gotten my ruler out and
10 measured to scale, et cetera, and although it is possible for the
11 eye to, perhaps, read things into prospective drawings from
12 opposite corners, if the angle is not exactly the same, when you
13 actually look at the elevations and the setbacks they are the same
14 massing from one set of drawings to the next.

15 COMMISSIONER FRANKLIN: Well, that's true with one
16 exception, and that is that the drawing of May 25, I'm looking at
17 VI, the prospective drawing of the building, it does not show the
18 penthouse, whereas, this one somewhat tentatively does.

19 MR. COCHRAN: You are correct with respect to the
20 prospective drawings, but with respect to the plans that have been
21 consistent throughout

22 COMMISSIONER FRANKLIN: The penthouse was shown.

23 MR. COCHRAN: the penthouse has always been there.

24 COMMISSIONER FRANKLIN: right.

25 MR. COCHRAN: And always of the same size.

1 COMMISSIONER FRANKLIN: Well, is it your view, Mr.
2 Cochran, that this drawing, which is on the third page of the
3 post-hearing submission, showing the penthouse, I believe showing
4 it for the first time in a prospective, is consistent with our
5 previous understandings of what this building was going to look
6 like? I m looking at, for example, VII of the May 25 submission,
7 which shows no penthouse at all in a position where I would have
8 expected to have seen it.

9 I agree with you that the line drawings and other
10 constant elevations have shown the penthouse, but one can t, from
11 those drawings, really conclude how visible that penthouse would
12 be from 16th Street, which may be why they weren t shown on the
13 prospective drawings, I don t know.

14 MR. COCHRAN: Mr. Franklin, I may have to check
15 again, but I believe that the penthouse is to the west of the S
16 I believe that regardless of the PD application, the penthouse
17 could have gone that high under matter of right in that location.

18 So, while there is I acknowledge a difference in the appearance
19 of the prospective drawings, the penthouse is in a matter of right
20 configuration, regardless.

21 COMMISSIONER FRANKLIN: I withdraw my comment about
22 VII, I think that the penthouse would not normally be shown on
23 VII.

24 MR. COCHRAN: I think, perhaps, the comparison is
25 better made between VI and page 03.

1 COMMISSIONER FRANKLIN: Right.

2 MS. KRESS: Does everyone have that in front of
3 them? Do we need any extra copies for any of the Commissioners?

4 COMMISSIONER HOLMAN: Of the first submission, yes.

5 MS. KRESS: Of the first submission?

6 COMMISSIONER HOLMAN: Yes.

7 CHAIRPERSON HOOD: I m kind of peeking on Mr.
8 Franklin, he has his.

9 MS. KRESS: We ll quick make a copy.

10 CHAIRPERSON HOOD: Well, let me say this, to save
11 time, Ms. Kress, we will look together here, there s only three of
12 us.

13 COMMISSIONER HOLMAN: That s right.

14 COMMISSIONER FRANKLIN: Well, at this stage, Mr.
15 Chairman, I m just simply lodging the observation. I ll be
16 listening with interest to the discussion of the other two
17 commissioners who were not previously involved in the case.

18 CHAIRPERSON HOOD: Let me just say, Commissioner
19 Franklin, I did take part in this case previously. I voted against
20 it, so I just wanted to put that on the record. I was one of the
21 members who voted against this.

22 COMMISSIONER FRANKLIN: Oh, I m sorry.

23 CHAIRPERSON HOOD: That was just for the record.

24 Any further comments or have we resolved that? Do
25 we know what is in the record, which one of which plans are

1 they going to use?

2 MS. KRESS: The final one, which was the post-
3 submission, exactly, the one in your hand, that does show the
4 penthouse, and that s what prompted Commissioner Franklin s
5 question.

6 CHAIRPERSON HOOD: Any other comments, Mr. Franklin?

7 COMMISSIONER FRANKLIN: No.

8 CHAIRPERSON HOOD: Any comments Commissioner Holman?

9 COMMISSIONER HOLMAN: Not at this time, no.

10 CHAIRPERSON HOOD: Well, I will say this, the first
11 time that I before I get to that, let me just ask, I want to ask
12 the Office of Planning, I want to make sure things are in order
13 before this Commission moves forward. From Mr. Foines letter
14 again, it looks as though he s pulled out something out, so you
15 can help refresh my memory, the housing linkage. It was
16 presented, I believe he said it was presented as an amenity, and
17 that s not actually how, it s not an amenity. So, could you
18 elaborate and tell me how the Office of Planning saw it as an
19 amenity, or is it not an amenity. It shouldn t be presented as an
20 amenity, from the way I understand it in my reading, so how
21 actually is that worked out. Have we worked that out?

22 MR. COCHRAN: It is a requirement, and the Office of
23 Planning views it as a requirement. The applicant has provided
24 housing that the Office of Planning believes is in excess of what
25 is required, however one may feel about the formula that is used

1 for the requirement. So, perhaps, we should have phrased the
2 amount over and above what is required as the amenity portion.

3 COMMISSIONER HOLMAN: Isn't it also my recollection
4 that the Department of Housing and Community Development rendered
5 an opinion regarding this matter?

6 CHAIRPERSON HOOD: Yes, they did render their
7 opinion.

8 COMMISSIONER HOLMAN: Okay.

9 CHAIRPERSON HOOD: That will come up under the
10 jurisdiction that we make sure that this Commission makes sure
11 that our regulations are followed, and then that's when I wanted
12 to make sure that it was not perceived as an amenity, as opposed
13 to being a requirement.

14 COMMISSIONER HOLMAN: Okay.

15 CHAIRPERSON HOOD: It's not like they were giving
16 this project something, because they weren't. They had to.

17 COMMISSIONER HOLMAN: Okay.

18 CHAIRPERSON HOOD: My major concern, I will be
19 frankly honest, colleagues, has not been addressed, but the way I
20 hear things going this is probably a moot point at this point in
21 time, but I'm going to express it, was the garage. The first time
22 I voted on this, the entrances and all that whole bit, the first
23 time I voted against it that was an issue. I will say that the
24 applicant has made some progress in making some changes. I concur
25 with them. I think they've done a good job to a point, but this

1 was the most pressing issue that stood out in my mind the first
2 time I voted for it, and, colleagues, I will just tell you that I
3 will be voting against this project because the main issue has not
4 been taken care of.

5 Let me just ask this to the Office of Planning, as
6 far as I m concerned, as far as this Commission is concerned, the
7 garage entrance, and I ve asked this previously, you can check the
8 record, have they exhausted all resources in making that entrance
9 on 16th Street, not putting it on 16th Street?

10 MR. COCHRAN: The Office of Planning believes that
11 they have.

12 CHAIRPERSON HOOD: That s the same answer I got the
13 last time I asked it, so I just wanted to see. But, anyway

14 COMMISSIONER HOLMAN: Well, Mr. Chairman, my
15 recollection also is that the and this is going back a little
16 ways, but the Department of Public Works was opposed to an
17 entrance on K Street, is that correct?

18 MS. KRESS: Yes, sir.

19 CHAIRPERSON HOOD: They were.

20 MS. KRESS: Yes, sir.

21 COMMISSIONER HOLMAN: Okay.

22 CHAIRPERSON HOOD: But, you do have an alley
23 entrance, which I understand they say is too small. But, let me
24 just also add that when you get people to invest in a community,
25 and this is what I believe and you may disagree, you don t get

1 them invested in something and then you turn around and then turn
2 around and show up later on with another picture. I think we need
3 to be consistent across the board. I m saying there is always
4 room for flexibility, but you have neighboring people who bought
5 into downtown housing, or whatever you call it, at one point in
6 time this City was able to get people to invest in that, and now
7 to turn around and not negotiate and come up with something, this
8 16th Street piece, which I think that the ANC, from what I m seeing
9 here, is totally against, is wrong, is wrong, and I can t sit up
10 here and vote for something that the folks who at one time were
11 led to invest in something and turn around and come here and just
12 do anything, I wouldn t want it done in my as long as I m here,
13 for my remaining tenure, I m not going to stand by and let these
14 kind of things happen.

15 So, I put my comments on the record, colleagues.
16 Unless you have anymore comments we can proceed.

17 No further comments. Well, if someone wants to put
18 a motion I ll put a motion on the table. My motion is to deny.

19 I didn t think I would get a second, so if you want to put
20 something on the table you can.

21 COMMISSIONER FRANKLIN: Well, I gather that Mr.
22 Holman, not having seconded the motion, would favor approval?

23 COMMISSIONER HOLMAN: That s correct, I m awake,
24 yes.

25 COMMISSIONER FRANKLIN: Would the Office of Planning

1 venture any judgment as to whether the penthouse, which now
2 appears so prominently, could be so designed or set back in a way
3 that it would be less prominent?

4 MR. COCHRAN: Mr. Franklin, I m very reluctant to
5 venture an opinion as to the actual location of the penthouse, due
6 to all the mechanical requirements, the elevators, what not.

7 It may be possible to design the facing of the
8 penthouse in a way that would make it recede more. Alternatively,
9 it may be possible to clad the penthouse with materials that would
10 make it appear to be a more integral part of the overall
11 architectural design.

12 As you know, I believe you know, the way that we
13 seem to treat penthouses in the District is as if an object that
14 is clearly quite material is, in fact, invisible. So, I do think
15 that it may be possible to take the opposite tact and have it
16 appear as something more similar to the treatment of the facade,
17 which would make it seem like it s more fully finished in such a
18 location.

19 COMMISSIONER FRANKLIN: What is the material being
20 used, it s very hard for me, with these Xerox copies, to have a
21 sense of what we are talking about here.

22 (Whereupon, off the record for discussion.)

23 CHAIRPERSON HOOD: I am going to ask everyone to
24 bear with us a few moments, please.

25 (Whereupon, off the record for discussion.)

1 COMMISSIONER FRANKLIN: Mr. Chairman, I move that we
2 approve this project in accordance with the plans submitted
3 bearing the date of July 7, 2000.

4 CHAIRPERSON HOOD: We have a motion.

5 COMMISSIONER HOLMAN: I second it.

6 CHAIRPERSON HOOD: It s been moved and seconded.
7 All those in favor by the usual sign of voting.

8 (Ayes.)

9 CHAIRPERSON HOOD: Any opposition?

10 Aye.

11 MS. KRESS: And, there is a proxy vote from
12 Commissioner Parsons also in the affirmative.

13 CHAIRPERSON HOOD: Okay.

14 Staff, would you record the vote?

15 MS. KRESS: Staff will record the vote as three in
16 favor, one in opposition. The motion was made by Commissioner
17 Holman, or was it Commissioner Franklin, Commissioner Franklin,
18 and seconded by Commissioner Holman.

19 CHAIRPERSON HOOD: Okay, thank you.

20 MS. KRESS: I m sorry, and those in favor were
21 Commissioner Parsons, Commissioner Franklin, Commissioner Holman,
22 and those in opposition were Commissioner Hood.

23 CHAIRPERSON HOOD: Okay, moving right along.

24 COMMISSIONER FRANKLIN: I would, if I can, Mr.
25 Chairman, just add that I think that a great deal of vigilance has

1 to be shown by both the architects and the lawyers when presenting
2 materials with the Commission to make sure that there isn't
3 anything inadvertently misleading about those materials.

4 Both Commissioner Parsons and I were upset to see
5 the distinctions in the prospective drawings, and I'm now looking
6 at the color drawing and I feel that the penthouse is not as
7 obtrusive as it may have appeared on the Xerox copies.

8 CHAIRPERSON HOOD: Well, maybe the next time when
9 they come, instead of just copying it, do it electronic and it
10 will show up a lot better. So, I'm just throwing that out there.

11 Okay, comment so noted, Commissioner Franklin. I,
12 too, concur with your comments, even though I didn't vote in the
13 affirmative. We need stuff in the record that's not misleading,
14 don't even try to mislead, and I'm not saying that that was the
15 case, but I think that to be a more accurate record I think that
16 we need to take that under advisement. So, thank you,
17 Commissioner Franklin.

18 Any other comments? If not, we'll move forward
19 with the agenda. Someone can ask Commissioner Mitten if she could
20 return.

21 Meanwhile, moving right along with our agenda, we
22 have, again, as I stated earlier in preliminary matters, the
23 Kennedy-Warren will not be discussed today because of one of the
24 original members who voted on that case, Mr. Parsons, is not in
25 attendance. We will be taking that up in our October meeting, and

1 I mentioned that earlier in preliminary matters, so, again, if you
2 arrived late I m sorry for any inconvenience but I think this
3 Commission serves better if everyone is here, and especially those
4 who voted on it the previous time.

5 Next, we will move into Zoning Commission Case No.
6 00-17, the Emergency Ruling, Metropolitan Police Department. Ms.
7 Kress.

8 MS. KRESS: I believe you have the information in
9 front of you, and if you have any questions, perhaps, our
10 corporation counsel, Mr. Bergstein, could answer them.

11 CHAIRPERSON HOOD: Colleagues, I feel pretty
12 confident, and this is an emergency. I don t know if this is
13 something that we really need to put a lot of grapple into, even
14 though I know it s very important, but I feel pretty confident in
15 the language that I have in front of me, but I want to open it up
16 for discussion at this time.

17 COMMISSIONER MITTEN: Well, I guess I d just like to
18 make a comment about the fact that, you know, this emergency
19 rulemaking is different from the original rulemaking that we made
20 in reference to the same issue, because in the original rulemaking
21 we agreed that a temporary modular type facility was what we were
22 granting permission for. And, this really goes beyond that to
23 allow a ROC to be established permanently in well, in a
24 permanent structure, let me put it that way.

25 So, I just wanted to clarify the difference between

1 what we had done in the past and what we are doing now, and the
2 things that impacted the nature of the fact that it is an
3 emergency I think still apply.

4 CHAIRPERSON HOOD: Colleagues, any other comments?

5 Okay, well, with that, again, this is an emergency.

6 I d like to get a motion.

7 COMMISSIONER MITTEN: I would be happy to make a
8 motion.

9 CHAIRPERSON HOOD: Sure, thank you.

10 COMMISSIONER MITTEN: Okay.

11 I move that the Zoning Commission adopt an
12 emergency rule to amend the zoning regulations to permit a
13 Metropolitan Police Department Regional Operations Command, also
14 known as ROC, as a matter of right only in an R-4 district. The
15 emergency rule should define a ROC as the use of a building or a
16 structure by the Metropolitan Police Department for various
17 purposes ancillary to law enforcement activities, including office
18 space and training facilities. The building or structure may also
19 contain office, meeting and recreational space for use by other
20 District of Columbia government agencies, Advisory Neighborhood
21 Commissions, citizen advisory councils and other government-
22 sponsored or sanctioned citizens groups.

23 And, I d like to capture an additional notion, if
24 somebody could help me articulate this, that the use be primarily
25 for the Police Department and not at some point in the future to

1 allow these other uses to take to, basically, take over the
2 space, because I think that the nature of what we are granting
3 here is with the police in mind, that s what creates the emergency
4 and so on. So, I don t know if something like a square footage
5 requirement would

6 COMMISSIONER HOLMAN: I don t know what the legal
7 significance of it is, but making the police use the predominant
8 use would, at least in my mind, say that more than 50 percent of
9 the use would be for police use, but that s not any kind of legal
10 interpretation.

11 COMMISSIONER MITTEN: Could we say something like
12 that, that more than 50 at least 50 percent of the building will
13 be for police use? Well, how about that, that s my motion, I ll
14 propose that, at least 50 percent of the building has to be for
15 police use.

16 COMMISSIONER FRANKLIN: Would you accept an
17 amendment to say 51 percent? That would be the predominant.

18 COMMISSIONER MITTEN: Sure.

19 CHAIRPERSON HOOD: Let me just let me just ask
20 colleague, Mr. Bergstein, if he can echo in on that. They are
21 putting a percentage on it, are there any legal ramifications if
22 we put a percentage in it?

23 MR. BERGSTEIN: I don t see any legal ramifications,
24 it s just a programmatic consequence if, in fact, the police have
25 in mind, or the other uses of this building are intended to be

1 more than 50 percent, and I, frankly, don't have that information.

2 But, certainly the thought was, since this was an application of
3 the Metropolitan Police Department, the presumption was that they
4 were going to occupy at least 51 percent of the building with
5 respect to their use.

6 CHAIRPERSON HOOD: With everybody moving to the
7 front, obviously, the 51 percent poses a problem. Let me just say
8 this before we get to the point where it may have to be clarified
9 by Mr. Collins, let me just say, my concern is sanction, and I
10 don't want to make even though this is an emergency, I don't
11 want to make a big deal over it, sanctioned citizen groups, and I
12 guess I just want to ask, what is a sanctioned citizen group.

13 MR. BERGSTEIN: That was my term, so the sense was
14 that either this was a group that was in some sense approved by
15 the government, either formally or in the sense that there was a
16 formal approval of MPD to use the building, but more that this
17 group had some sort of official approval by the District of
18 Columbia, so that there was a nexus between the activities that
19 were being carried on in the building and a government purpose.

20 COMMISSIONER HOLMAN: Couldn't you almost imply that
21 by virtue of the fact that they are in the building in the first
22 place that implies some type of sanction, and that, you know, I'm
23 sure we are trying to get a wide range of community activities and
24 I certainly support that, like the Orange Hats and other
25 organizations that work closely with the police, like the Boys and

1 Girls Club, all those kinds of organizations. I know that s what
2 at least my intent is, so, hopefully, we are conveying the right
3 message.

4 CHAIRPERSON HOOD: And, I wanted to just make sure,
5 being an Orange Hat, I wanted to make sure that

6 COMMISSIONER HOLMAN: Oh, really?

7 CHAIRPERSON HOOD: on that end of town that they
8 were able to use this facility.

9 Any other comments?

10 COMMISSIONER FRANKLIN: Well, perhaps, Mr. Chairman,
11 we are talking about some principle, at least as I see it, that
12 would not open the building up to social gatherings of people,
13 whether for private purposes like weddings, or confirmations, or
14 birthday parties, or things of that sort. So, maybe we ought to
15 say government-sponsored citizen groups, or other groups organized
16 to pursue public purposes, or something like that.

17 CHAIRPERSON HOOD: Let me just ask, Mr. Franklin,
18 that would not exclude the kids, I know a lot of times the Police
19 Department will have Halloween parties, Christmas parties, that
20 would not exclude the kids, would it?

21 COMMISSIONER FRANKLIN: If the police are,
22 basically, sponsoring it

23 CHAIRPERSON HOOD: Okay.

24 COMMISSIONER FRANKLIN: that would be entirely
25 okay.

1 CHAIRPERSON HOOD: Sanctioning it, okay.

2 With the motion that s in order, colleagues, do we
3 feel like we need to hear additional information from Mr. Collins
4 and his group, who have moved expeditiously to the front?

5 COMMISSIONER MITTEN: Well, I would say, since we
6 are trying to facilitate, you know, their use of the property, if
7 we are about to do something that doesn t permit that then we
8 should find that out. So, I would recommend that we

9 CHAIRPERSON HOOD: Do we have a motion?

10 MS. KRESS: There is a motion, but I did not hear a
11 second.

12 CHAIRPERSON HOOD: Okay, well, would the maker of
13 that motion withdraw it so we can hear from Mr. Collins?

14 MS. KRESS: I believe you can just let it stand.

15 CHAIRPERSON HOOD: Okay, it dies by lack of a
16 second.

17 COMMISSIONER FRANKLIN: Well, I m glad to second it,
18 Mr. Chairman.

19 CHAIRPERSON HOOD: You are glad to second it?

20 COMMISSIONER FRANKLIN: Yes.

21 CHAIRPERSON HOOD: But, I mean, that one will die at
22 this time until we hear from Mr. Collins, if my colleagues don t
23 mind.

24 Mr. Collins.

25 MR. COLLINS: Thank you, Mr. Chairman and members of

1 the Commission, I m Chris Collins with Wilkes, Artis, and behind
2 me are several representatives of the Metropolitan Police
3 Department who are intimately involved in this process.

4 There is a memo that I sent to Mr. Bastida, dated
5 August 8th of this year. I m not sure whether it s in the record,
6 and I understand he s not in town, but it did outline what the
7 uses are. And, if you don t have it, I d be happy to briefly go
8 through it with you so you get a full sense of what it is.

9 Our concern is that there is no misunderstanding as
10 to what you meant by 51 percent police use in the building. Let
11 me just explain, I can just go through it quickly.

12 On the second floor of the building, the Regional
13 Operations Command would occupy, for that very purpose,
14 approximately, 3,500 square feet. The Training Division of MPD
15 would also be on that same floor and occupy the other half, which
16 is about 3,250 square feet.

17 On the first floor, there would be about 4,000
18 square feet in the building which is space for eight to ten
19 neighborhood stabilization officers. These are from DCRA and DPW,
20 not from Metropolitan Police Department, but they are for
21 neighborhood purposes. They would work primarily in the field,
22 but they would have space in the building for their purposes.

23 Also, on that floor would be a community room,
24 available for meetings of community groups including the ANCs and
25 others. There would be office space for the ANCs. There would be

1 office space for the citizen advisory councils of both the 2nd and
2 4th Districts of the Police Department. That would be
3 approximately 1,550 square feet.

4 The basement will have the Family Violence and
5 Child Abuse Unit of Youth and Family Services of MPD. They ll
6 have a staff of nine to 11 people. Most of that work would be
7 conducted in the field, however, they would have 4,660 square feet
8 on that level.

9 Also on that level is the gymnasium, which is about
10 5,000 square feet. It s the single largest thing. This is for the
11 children, and for other types of events like that. So, I wanted
12 to make sure that you all understood what this is all about. It
13 likely will be more than 50 percent police or police-sponsored
14 activities, but I wanted to make sure we weren t tied down
15 specifically, that there was a misunderstanding as to what the DPW
16 neighborhood stabilization officers were all about, or the
17 children s use of the gymnasium, as I stated before.

18 But, it sounds like, I believe we re on the same
19 wavelength, but I was just concerned about that language being so
20 specific that it might undue something that we are trying to
21 achieve here.

22 CHAIRPERSON HOOD: Any questions?

23 COMMISSIONER HOLMAN: I would just say, based on
24 that, maybe we don t need to be as precise as the percentage,
25 because when we were discussing this I was thinking about some

1 large use, like a gymnasium, that might, in square footage terms,
2 be as large as some of the office space, and I think we are trying
3 to get this done in an expeditious manner, and maybe the motion,
4 as it was previously presented, might work, but that would really
5 depend on the mover of the motion.

6 COMMISSIONER MITTEN: I guess, you know, what we are
7 trying to do is, we understand what the immediate need is, but we
8 are also trying to look ahead, given that there is a dynamic
9 quality to the way that the police are organized. You know, they
10 change from time to time about how they deploy people and how
11 they, you know, organize them in a regional way. So, you know,
12 given that this idea of a ROC may be something that doesn't have,
13 you know, it doesn't survive like a five-year window, we don't
14 want to be so liberal in our wording of this rulemaking that we
15 open the door to this becoming something that's really not
16 primarily police oriented.

17 So, that's the goal of this discussion. I mean,
18 given that we don't want people to have to, you know, go
19 periodically and measure everything precisely, but I do want it to
20 be, you know, I don't want the building to be overwhelmed by uses
21 that are not police related, so I don't know what to suggest at
22 the moment, because, I mean, we could back off of the 50 percent,
23 or the 51 percent, to give some added flexibility, but I don't
24 want to lose the notion of it.

25 MR. COLLINS: I am looking at your draft motion,

1 which a copy has been given to me, I think that in the last
2 sentence possibly picking up on the language that you all
3 mentioned before, maybe police or police sanctioned uses might be
4 appropriate. I understand, Ms. Mitten, your concerns, and,
5 obviously, this is an application of the Police Department for
6 this use, and this is all part of the police presence in this
7 community. We certainly don't want it to be misinterpreted by
8 some future city official that, well, you don't have 51 percent
9 because you've got a gymnasium here, and you've got the DPW,
10 neighbor stabilization officers there. So, that's what we are
11 trying to avoid.

12 COMMISSIONER FRANKLIN: Would you accept police
13 sponsored activity, instead of police sanctioned activity?

14 MR. COLLINS: Certainly, oh, certainly, certainly.

15 COMMISSIONER FRANKLIN: So, what we are being told,
16 Mr. Collins, is that you do not find yourself opposed to the
17 sentence that would say the non-police use must always remain
18 subordinate to the predominant use or police-sponsored use.

19 MR. COLLINS: Well, I believe

20 COMMISSIONER FRANKLIN: The word predominate should
21 be predominant, by the way.

22 COMMISSIONER MITTEN: Can I just make a comment
23 about this, which is, the idea of subordinate and predominant
24 uses, that's not a concept that's woven into the Zoning
25 regulations, and, I mean, I would rather say what we are trying to

1 say with those words than to use those words, because they may be
2 open to an interpretation that that s why I was hoping that we
3 could somehow quantify it.

4 CHAIRPERSON HOOD: I kind of went along with what
5 Mr. Franklin said, and I ll tell you my rationale, my reasoning,
6 and, Mr. Collins, you can let me know if I m in the right area.
7 The Police Department now, they are tying in a lot of these
8 agencies. For example, when the officers are out they see things
9 that are DCRA related, Public Works related, U.S. Attorney, those
10 issues, so it s better for them to operate, I believe, with things
11 like that on site.

12 So, I would consider, from my standpoint, I would
13 consider that, and I m just throwing this out here, I would
14 consider that a sponsored I don t want to say sponsored, but I
15 would consider that a quasi police function.

16 COMMISSIONER MITTEN: Yes, I agree. I don t have a
17 problem with that sort of interpretation. It s just the question
18 of, whatever those uses are that we are trying to you know, that
19 we are trying to embrace, direct, you know, police and these other
20 related uses, that s all fine, it s just that I want I want to
21 capture that it s those uses that will occupy most of the
22 building. That s what I m trying to capture. I agree that we
23 should try and include as much as possible, given that it is
24 related to what the police are doing. I don t have a problem with
25 that, I m just trying to preserve the idea that we are doing this

1 to facilitate law enforcement.

2 MR. COLLINS: Can I suggest that maybe we use that
3 very word, law enforcement?

4 COMMISSIONER MITTEN: Okay, law enforcement, that s
5 great. That s great, okay.

6 MS. KRESS: So, could we restate what that last
7 sentence was?

8 CHAIRPERSON HOOD: Let me check something.

9 MS. KRESS: I m sorry.

10 CHAIRPERSON HOOD: Mr. Franklin, how does that sound
11 to you, law enforcement?

12 COMMISSIONER FRANKLIN: Oh, yeah, that s fine.

13 CHAIRPERSON HOOD: Okay.

14 COMMISSIONER FRANKLIN: In fact, if you look at the
15 earlier part of the motion, the word ancillary to law enforcement
16 occurs, and we re talking, essentially, about things that are
17 ancillary, both law enforcement and ancillary law enforcement.

18 MR. BERGSTEIN: Well, the intent was to exclude
19 there is two ways of writing this, one was to write what you
20 wanted not to be there, the other was to write what you wanted to
21 be there, with the intent that what you didn t want to be there
22 would be interpreted.

23 The purpose of ancillary to law enforcement would
24 be all those activities other than the apprehension, the booking
25 and the holding of law violators, and I m assuming that none of

1 those functions would be in this ROC, but there were going to be
2 detective offices, so we wanted to make it clear that persons
3 could be able to go there and give complaints and the detectives
4 could work out of there, in terms of investigation. So, ancillary
5 to law enforcement was intended to convey all law enforcement
6 related activities and ancillary activities such as sponsoring
7 youth groups, community outreach, those types of activities,
8 everything except the actual apprehension, and booking, and
9 holding of law violators. That was the intent of that phrase.

10 COMMISSIONER MITTEN: But, given what it says now,
11 and given that, you know, we are now we are talking about how
12 are we going to exclude the booking and the holding of people on
13 site, I don't get that we've gotten that.

14 MR. BERGSTEIN: That would be my problem with, if
15 you use the term law enforcement, that does include those things.

16 COMMISSIONER MITTEN: Right.

17 MR. BERGSTEIN: So, that's why ancillary to law
18 enforcement was intended to convey that.

19 The other way of writing this would be to say all
20 police activities other than the apprehension, booking and holding
21 of law violators, but the intent was to write this more expansive,
22 particularly, because this is, in essence, a one-time event, this
23 is an emergency. It's, at this point, going to expire, and,
24 therefore, the idea is that there's a sense of what was being
25 dealt with here, so that the idea of ancillary to law enforcement

1 would encompass a broad range of police activities, but not actual
2 the activities that I was describing.

3 And so, if there s a sense that ancillary law
4 enforcement needs to be refined out, then I think that s the
5 wording you want to work with.

6 COMMISSIONER FRANKLIN: Well, you know, we don t
7 have to write the regulation at the moment. I think the
8 corporation counsel will draft a regulation that is in accord with
9 the general drift of the motion, correct?

10 MR. BERGSTEIN: That s absolutely correct.

11 COMMISSIONER FRANKLIN: Okay, so I think we have a
12 consensus that we want the uses that are ancillary to law
13 enforcement to be the predominant uses in the building, and we
14 don t want private uses, that is to say, uses that have no public
15 purpose. They are out altogether. We are not creating a place
16 for birthday parties, and what have you, receptions, or just, you
17 know, basketball games that have no public connection.

18 CHAIRPERSON HOOD: Can we just incorporate, this is
19 a procedure issue, can we just incorporate what Mr. Franklin said
20 into the motion, and then let legal folks get together and come up
21 with the terminology, because I believe everyone, we have a
22 consensus, as Mr. Franklin said, we know the angle we are trying
23 to approach, or do you think for the record that we need to
24 restate it?

25 MS. KRESS: I think that we can take the consensus

1 and work on the refinement of words, and give it back to you, E-
2 mail, whatever, so that you can have the final nod on those words,
3 rather than word smithing them today.

4 CHAIRPERSON HOOD: Okay.

5 MR. BERGSTEIN: What I believe the motion would be
6 is everything that Commissioner Mitten stated, until she posed the
7 question, and then the intent would be that the rule would make it
8 plain that whatever uses were to be allowed in the facility would
9 not be for private purposes.

10 CHAIRPERSON HOOD: Is that a motion?

11 COMMISSIONER MITTEN: I believe Ms. Mitten still had
12 a motion on the table, Commissioner Mitten did, and Commissioner
13 Franklin was ready to second that.

14 CHAIRPERSON HOOD: Let me just say, I wanted to make
15 sure that was incorporated, and Mr. Bergstein had responded so
16 eloquently, Ms. Mitten, would you like to restate that?

17 COMMISSIONER MITTEN: Do you want me to just make
18 reference to what we have in front of us?

19 CHAIRPERSON HOOD: Reference to it, so we can have a
20 motion, so we can vote on it today, that s basically what I was
21 trying to do.

22 COMMISSIONER MITTEN: Okay, I ll repeat it.

23 CHAIRPERSON HOOD: Right, and then we ll just add
24 that, so it will be on the record.

25 COMMISSIONER MITTEN: Well, I think that the way

1 that it s written gets the spirit of it, because we still need to
2 draft the language, okay, I move that the Zoning Commission adopt
3 an emergency rule to amend the Zoning regulations to permit a
4 Metropolitan Police Department Regional Operations Command, or
5 ROC, as a matter of right only in an R-4 District. The emergency
6 rule should define a ROC as the use of a building or structure by
7 the Metropolitan Police Department for various purposes ancillary
8 to law enforcement activities, including office space and training
9 facilities. The building or structure may also contain office,
10 meeting and recreational space for use by other District of
11 Columbia government agencies, Advisory Neighborhood Commissions,
12 citizen advisory councils and other government-sponsored or
13 sanctioned citizen groups.

14 CHAIRPERSON HOOD: Okay.

15 Mr. Franklin, could you address

16 COMMISSIONER FRANKLIN: Uses not ancillary to law
17 enforcement shall be subordinate to the predominant police use or
18 police-sponsored use, and private uses shall not be permitted.

19 CHAIRPERSON HOOD: Okay.

20 Colleagues, we have a motion, which I haven t done
21 this before, put on the table by two Commissioners, but anyway,
22 it s moved, do we have a second? I ll second it.

23 All those in favor by usual sign of voting.

24 (Ayes.)

25 CHAIRPERSON HOOD: Any opposition?

1 Do we have a proxy?

2 MS. KRESS: Yes, we do, in favor.

3 CHAIRPERSON HOOD: Okay, so ordered.

4 Staff, would you record the vote?

5 MS. KRESS: The vote will be recorded as 5/0, the
6 motion made jointly by Commissioner Franklin and Commissioner
7 Mitten, and seconded by Commissioner Hood.

8 CHAIRPERSON HOOD: Okay, thank you.

9 Next, moving right along with our agenda, we have
10 the consent calendar, Ms. Kress?

11 MS. KRESS: Yes, you have before you a request for a
12 minor clarification regarding the request for party status to help
13 clarify our regulations. It s before you for your review and
14 approval today.

15 CHAIRPERSON HOOD: Okay, colleagues, we have in
16 front of us, as Ms. Kress said, Zoning Commission Case No. 00-04,
17 it s a minor clarification regarding request for party status.
18 This will definitely enable us and help us, as well as the Board
19 of Zoning Adjustment, to be able to proceed with hearings more
20 expeditiously. So, with that, I could open up for any comment,
21 any questions, any concerns? If not?

22 COMMISSIONER HOLMAN: Move approval of Case 00-04.

23 COMMISSIONER FRANKLIN: Second.

24 CHAIRPERSON HOOD: It s been moved and seconded. I
25 would just like to read this into the record, Commissioner Holman,

1 if it s okay.

2 COMMISSIONER HOLMAN: Absolutely.

3 CHAIRPERSON HOOD: I move that the Zoning
4 Commission, in accordance with the Consent Calendar Procedures of
5 11 DCMR 3030, give notice of proposed rulemaking to require that
6 persons seeking party status in a contested case before the
7 Commission or the BZA include, as part of their written request, a
8 statement explaining how the persons interests are uniquely
9 affected by the proposed action. The proposed rule should also
10 provide for service of BZA final decisions by First Class mail.
11 Okay, is that acceptable?

12 Okay, it s been moved and properly seconded. All
13 those in favor by usual sign of voting.

14 (Ayes.)

15 CHAIRPERSON HOOD: Any opposition?

16 So ordered. Do we have a proxy?

17 MS. KRESS: Yes, we do, and Commissioner Parsons
18 voted in the affirmative, so I would record the vote as 5/0,
19 motion made by Commissioner Holman and seconded by Commissioner
20 Franklin.

21 CHAIRPERSON HOOD: Okay, thank you.

22 Moving right along, we have no Legislative Report,
23 no Litigation. Correspondence, Ms. Kress.

24 MS. KRESS: Yes, Correspondence, we had this summer
25 two petitions come in. One was from ANC 2F, to amend Chapter 19

1 on the Uptown Arts Mixed Use Overlay District, and it s basically
2 directed at the 1400 Block of Church Street, and that petition was
3 received and forwarded to the Office of Planning for their review
4 for a set down, and both this one and the next one, according to
5 Office of Planning schedule, the report is due to the Zoning
6 Commission regarding this set down by the end of September, so
7 that you can hear it formally for set down at the October 16th
8 meeting.

9 The second item under Correspondence is a petition
10 from ANC 3G, which is to amend the Zoning Map for the east side of
11 Connecticut Avenue, between Jocelyn and Nebraska, and it is
12 basically to change the zoning from an R-5-D to an R-3, as it is
13 on the west side of Connecticut.

14 Again, that was forwarded to the Office of
15 Planning, and as I mentioned earlier their schedule notes a report
16 due by the end of September so that it can be considered for set
17 down at your October 16th meeting.

18 CHAIRPERSON HOOD: Okay.

19 MS. KRESS: Any questions?

20 CHAIRPERSON HOOD: Any questions of Ms. Kress?

21 Okay, thank you, Ms. Kress.

22 Let me, before we get to the Report of the
23 Secretary, I mean, well, the Reminder Schedule we can omit because
24 we ve done that in Executive Session, but before we get to the
25 Report of the Director I just wanted to make a statement, there

1 was an issue brought to my attention with 1957 E Street, some
2 correspondence from the Foggy Bottom and West End Advisory
3 Neighborhood Commission. At no time will the Office of Zoning not
4 respond, it may not always be in writing, but we will deal with
5 every piece of correspondence that comes into this office.

6 Ms. Kress has assured me that this correspondence
7 has been dealt with all the time because of the abundance of work,
8 sometimes it s kind of hard to get a response back immediately,
9 but this issue has been taken care of, so I would like for Ms.
10 Spillinger, and I want to put this on the record, Advisory
11 Neighborhood Commission 2A, that this issue has been resolved, I
12 believe.

13 MS. KRESS: Yes, and a letter has been sent as of
14 last week, and for the future, every single letter will be to
15 the Zoning Commission from ANC, if it is not case-related, so that
16 you get it through the normal course of events, will be, (1)
17 referred to you as a part of correspondence, and (2) will be
18 responded to in writing.

19 CHAIRPERSON HOOD: I just wanted to put that on the
20 record because this Commission and this Office will respond, we
21 are citizens too, we are not sitting on some pedestal, we live in
22 Washington, D.C. ourselves, so I wanted to put that on the record.

23 The Report of the Director, Ms. Kress?

24 MS. KRESS: Yes, I am pleased to say that the Office
25 of Zoning and, particularly, the staff of the Zoning Commission,

1 and Alberto, and corporation counsel, and special thanks to Marie,
2 have spent the month of August working very hard to clean up
3 editorially the 11 DCMR, and these are just clean-up, cross-
4 reference referrals, typographical mistakes, references to other
5 departments.

6 Unfortunately, it turned out to be a much bigger
7 task than was originally envisioned, and so it has taken pretty
8 much the full month of August to put together all of the
9 revisions.

10 It was done also in hopes of getting to Office of
11 Documents prior to their publication of the current Zoning
12 Regulations, which were, again, promised the end of September.
13 Right now it seems it will probably be in October, but our
14 editorial revisions will be getting to them in finality. I think
15 most of them are already to the Office of Documents, but the last
16 clean-up should be going up in time to be a part of their
17 publication of the updated 11 DCMR.

18 And, I would also like to take this opportunity to
19 thank Commissioner Mitten and thanks to her kind of offices, this
20 was a somewhat overwhelming task, trying to do in such a short
21 time, and they were quite a help in putting together the typed
22 format of the revisions for the Office of Documents.

23 CHAIRPERSON HOOD: Okay, thank you.

24 I also would like to thank Commissioner Mitten for
25 going above and beyond the call of duty as a Zoning Commissioner

1 in helping out with that process.

2 Also, I would ask Ms. Kress, and you can pass it to
3 Mr. Bastida, that we do a letter to Mr. Bergstein and Ms. Sansone,
4 letting Mr. Rigsby know how they have actually come and helped
5 this office and risen to the occasion on many occasions, and if we
6 could prepare that and I will sign a letter going to Mr.
7 Bergstein. I think they've been very helpful, him, and Ms.
8 Sansone, and corp counsel, to this office in advising us in our
9 work load that we have to deal with.

10 MS. KRESS: I would be happy to do that.

11 CHAIRPERSON HOOD: Okay, thank you.

12 With that, colleagues, are there any other
13 comments?

14 Mr. Franklin?

15 COMMISSIONER FRANKLIN: I had a question for Ms.
16 Kress. When might we receive our own copies of the Zoning
17 Regulations?

18 MS. KRESS: If you want, you can actually pick it up
19 today. Basically, unfortunately, this is not the one the Office
20 of Documents is doing, it's our own unofficial version, and,
21 basically, we have also worked this summer putting together a
22 manual that includes everything that we, as staff, feel that
23 Commission members and board members need and can use on a regular
24 basis. Unfortunately, the notebook is that thick, and a part of
25 it is an updated Zoning Regulations.

1 The only thing that is not completed yet, we have
2 been working on some of the procedures and helpful dos and don ts,
3 but the notebooks are together and ready to I don t I
4 shouldn t speak, perhaps, all the tabs aren t labeled, but they
5 are ready and so they will be available immediately.

6 COMMISSIONER FRANKLIN: Could I send somebody for
7 them?

8 MS. KRESS: Sure, and let s check today after the
9 meeting, and if it s labeled it will be ready to leave with you
10 this afternoon.

11 COMMISSIONER FRANKLIN: Wonderful.

12 CHAIRPERSON HOOD: Let me just also add, Ms. Kress,
13 I would be remiss if I didn t say anything about how this office
14 has improved. I know a lot of times you are not it s not
15 mentioned, but you are the caboose behind this train, and we took
16 a beating at first, but I think that the efficiency, and the
17 efficiency of the running of this office, is attributed to your
18 leadership in this office, and from this Commission, and I m sure
19 from my colleagues, we appreciate it, and from the citizens of the
20 District of Columbia, this office has improved tremendously.

21 So, I don t want to say no demonstrating in the
22 chamber, but I won t do that.

23 With that, if everything is in order, colleagues,
24 no further business, this meeting is adjourned.

25 (Whereupon, the meeting was concluded at 2:47 p.m.)