

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR MEETING
1109th MEETING SESSION (1st OF 2001)

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MONDAY
JANUARY 8, 2001

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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
JOHN G. PARSONS	Commissioner

COMMISSION STAFF PRESENT:

Alberto P. Bastida,	Secretary, ZC
Gerald Forsburg,	Office of Zoning

OTHER AGENCY STAFF PRESENT:

Ellen McCarthy,	Office of Planning
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D.C. OFFICE OF CORPORATION COUNSEL:

Alan Bergstein,	Esq.
Marie Sansone,	Esq.

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(1:35 p.m.)

CHAIRPERSON HOOD: Good afternoon, ladies and gentlemen. This is the regular monthly meeting of the D.C. Zoning Commission, Monday, January the 8th, 2001, at 1:35.

Joining me this afternoon are Commissioners Parsons, Mitten, who serves as Vice Chair, and Commission Franklin.

Action on our minutes. I'm going to ask colleagues -- first, let me back up. I'm going ahead of myself.

Preliminary matters, Mr. Bastida, there are none?

MR. BASTINA: Correct, Mr. Chairman.

CHAIRPERSON HOOD: Okay.

MR. BASTINA: And then you are moving really fast. Thank you.

CHAIRPERSON HOOD: Action on our minutes, I'm going to ask that we defer our December -- voting on our December minutes until next monthly meeting, which will be in February.

Okay. Our status report. Office of planning.

MS. MCCARTHY: Good afternoon, Mr. Chairman and members of the Commission.

You have received the Office of Planning's status report. I guess the best thing to do is as we usually do, to just indicate is there anything that the Commission had some

1 questions on or wanted some further information on?

2 CHAIRPERSON HOOD: Colleagues, as always, we have
3 received our status report. Any questions? Comments?

4 (No response.)

5 CHAIRPERSON HOOD: Okay. Hearing none.

6 MS. McCARTHY: Okay.

7 CHAIRPERSON HOOD: Let me just take a minute and
8 give everybody a chance just in case they did have one.

9 Ms. McCarthy, I don't think we have any
10 questions. That must mean it was a well planned report.

11 (Laughter.)

12 MS. McCARTHY: I suppose that's true. We will be
13 sending the Commission -- I should mention in terms of a couple
14 of these cases. I did want to let you know that the campus
15 planning regulations, we are definitely aiming for a February
16 set-down on those. We met in December with a consortium of
17 universities and with a few representatives from the individual
18 members of the Federations of Citizens Associations. But the
19 federation is still trying to get a meeting together of the full
20 committee of the federation that's been dealing with campus
21 planning issues.

22 But we really want to get -- we committed to have
23 that meeting as soon as possible and get a draft set of
24 regulations circulated to both sets of interests by the latter
25 part of January so we could have a report to you in plenty of

1 time for you to consider for set-down at the February meeting.

2 Because we feel like that's extremely relevant to
3 some of the issues that you are trying to deal with on the other
4 campus plans. And we certainly have been hearing from a number
5 of groups that they'd like to see some quick action on that.

6 And the consortium had indicated that they would
7 be getting us back some written responses to the sort of
8 concepts that we floated out in our meeting with them. And I
9 guess -- oh, the other thing I just wanted to mention, too, the
10 contract has been awarded for the Anacostia Waterfront
11 Initiative. And as part of that we are preparing a summary of
12 where things stand in terms of consensus decisions that were
13 reached by the Commission on the Buzzard's Point overlay.

14 Since that is becoming active again, if the
15 Commission members that were not part of the original hearings
16 could agree to read the record, it might be useful in terms of
17 being able to come back to you with some recommendations about
18 that, about how to deal with that case which would be good to
19 dispose of before we finish that entire matter, perhaps not by
20 the time all of the consultant work is finished for the larger
21 piece. But we think some actions in the interim would be useful
22 to safeguard the mixed used character of that area.

23 So just a heads up for you on those two cases,
24 Mr. Chair.

25 CHAIRPERSON HOOD: Okay. Thank you.

1 MR. FRANKLIN: Mr. Chairman, perhaps Ms. McCarthy
2 can confirm what I have read in the press and that is that the
3 Giant PUD matter is unlikely to come before us because of a
4 change in the plans of the applicant.

5 MS. MCCARTHY: We have asked or back at the
6 office they are supposed to be getting in touch with the
7 applicant's law firm to ask if there is a possibility to maybe
8 keep that from being tabled or changed.

9 I guess the initial reaction of the Office of
10 Planning is that the proposed revised project is really less
11 than what was originally considered in terms of how it relates
12 to the street, you know, the whole liveliness of the Wisconsin
13 Avenue frontage, and that we're really kind of disturbed by the
14 direction that case has taken.

15 So certainly from what's been reported in the
16 press, it seems like we're not on track for that date. But we'd
17 like to meet with the applicant and the neighborhood before
18 making a final commitment to that.

19 MR. BASTINA: Mr. Chairman, could I add to that?

20 CHAIRPERSON HOOD: Sure.

21 MR. BASTINA: I have been advised informally from
22 the applicant's counsel that the applicant is going to request
23 withdrawal of the application, and they were going to do it as a
24 matter of right.

25 Accordingly, I cannot take it totally out of the

1 calendar because it hasn't officially come to me. I mean it
2 hasn't officially come to the Office of Zoning. But I already
3 had advertised another two cases for that day in anticipation of
4 that event because I have been assured that, in fact, the
5 hearing at least will be requested to be postponed.

6 CHAIRPERSON HOOD: Okay.

7 MR. BASTINA: And we have two EFs.

8 CHAIRPERSON HOOD: That's fine.

9 MR. BASTINA: Yes. But that's why you have the
10 EFs there. The Giant is out, and the reminder is scheduled.

11 CHAIRPERSON HOOD: Okay. Thank you.

12 Ms. McCarthy, have you finished your report?

13 MS. MCCARTHY: I'm sorry Mr. Chair. I guess one
14 thing that I should add is that listed on the report is the
15 Rhode Island Avenue Metro area rezoning which is essentially
16 rezoning of those two parcels in order for the K-Mart to be
17 built. It's listed as a January 11 public hearing.

18 I had hoped to have a signed copy of our report
19 to give you before today's public hearing. And I don't have it
20 back. The Director hasn't had a chance to sign off on it yet.

21 My understanding though from the Deputy Mayor's
22 Office is despite the fact that that information, the full
23 traffic reports and some of the other things that we needed,
24 weren't due until the last minute, that that project is on a
25 tight time table, and I'll confer with the Deputy Mayor's Office

1 and see whether it's a possibility I could forward that to you
2 maybe at one of the upcoming hearing meetings this month for
3 your consideration if it needs to be formally set down before
4 the February meeting.

5 CHAIRPERSON HOOD: I'm confused. Which case are
6 we talking about, Ms. McCarthy? Maybe I heard you but didn't
7 hear you.

8 MS. McCARTHY: Oh, I'm sorry. I'm sorry. I have
9 too many K's floating around.

10 CHAIRPERSON HOOD: Okay. So we are not talking
11 about our hearing coming up Thursday?

12 MS. McCARTHY: I was getting it confused with the
13 K-4. But that's right that's the public -- we already did the
14 set-down report on that case. So we are set.

15 We are trying to get the public hearing -- the
16 hearing report into you as soon as possible for review before
17 the January 11 public hearing at which is obviously only this
18 Thursday.

19 CHAIRPERSON HOOD: Thursday.

20 MS. McCARTHY: So it would have been nice if we
21 had it in before that time. But there's a great deal of
22 structural work and traffic work for that site. It's a fairly
23 complicated site. And some of those consultant reports were not
24 in until late. So we're doing the best we can to get that
25 report in, to get it to you in as much time as possible before

1 the hearing.

2 CHAIRPERSON HOOD: Okay. Colleagues, any
3 questions of Ms. McCarthy?

4 (No response.)

5 CHAIRPERSON HOOD: Okay. With that, thank you
6 Ms. McCarthy.

7 Again, I think a lot of our questions have been
8 answered because of the new status report in which the Office of
9 Planning is providing. So that answers a lot of our questions
10 and also saves both sides a lot of time.

11 So again I want to commend you and let's keep on
12 doing these reports exactly like we are doing.

13 Hearing action, back to the Office of Planning.
14 Let me call the case first.

15 Zoning Commission case number 00-39MA. It's the
16 Mass. Avenue, Salvation Army's old site.

17 MS. McCARTHY: Thank you, Mr. Chair.

18 This case is very similar to the Square 517 case
19 and the K-4 cases that the Commission has considered recently.
20 So I'll just do a very brief summary and then if we have more
21 detailed questions, we can go into it.

22 But essentially this is one of those cases where
23 the land around it was zoned for the downtown development
24 district overlay in 1991. But because there was a preexisting
25 PUD on this site, the so-called Salvation Army PUD, this site

1 had been exempted from the DD zoning.

2 And because that PUD has lapsed and the current
3 purchaser, the contract purchaser, would like to see the
4 downtown development district extended, and since the DD has
5 been applied, DDC2C is all around that area. It's mostly a
6 matter of just consistency to rezone that site consistent with
7 the squares around it.

8 And it's our understanding from the applicant
9 that they intend to do housing development on the site.

10 CHAIRPERSON HOOD: Okay. Thank you.

11 We are moving right along here. Colleagues any
12 questions? We have in front of us asking to set down Zoning
13 Commission case number 00-39MA. That's the Salvation Army's old
14 site. Any questions of the Office of Planning?

15 (No response.)

16 CHAIRPERSON HOOD: I'm not used to this no
17 questions. Colleagues, I'll put it in front of us now and see
18 whether or not we want to set this down for a hearing. What is
19 your pleasure?

20 VICE CHAIRPERSON MITTEN: Mr. Chairman, I move
21 that we set zoning case number 00-39MA down for public hearing.

22 CHAIRPERSON HOOD: I'll second the motion.

23 All those in favor by usual sign of voting.

24 (Chorus of ayes.)

25 CHAIRPERSON HOOD: Any opposition?

1 (No response.)

2 CHAIRPERSON HOOD: So ordered. Staff would you
3 record the vote.

4 MR. BASTINA: Yes. Mr. Chairman, Mr. Holman
5 provided proxy, and he agrees with the motion to approve. So I
6 would record the vote of five to zero, Ms. Mitten moving and Mr.
7 Hood second it, and Mr. Parsons and Mr. Franklin voting on the
8 affirmative, Mr. Holman voting on the affirmative by proxy.

9 Thank you.

10 CHAIRPERSON HOOD: Thank you.

11 We have no proposed action. No final action.
12 Consent calendar, we have nothing. Legislative report, none.
13 Litigation, none. Correspondence, let me just say
14 on your agenda we have Correspondence A. We will deal with that
15 at the time of the hearing.

16 And B and C, we have directed the staff to
17 respond appropriately.

18 Next, the report of the secretary. Let me ask,
19 colleagues, any comments or questions on what I've just
20 mentioned?

21 (No response.)

22 CHAIRPERSON HOOD: If not, report of the
23 Secretary, Mr. Bastina.

24 MR. BASTINA: The secretary only has to report
25 out by the reminder of the schedule that was provided to you.

1 If you have any questions regarding that matter, I'll be glad to
2 address it.

3 CHAIRPERSON HOOD: Okay. Any questions?
4 Comments?

5 (No response.)

6 CHAIRPERSON HOOD: If not, that's pretty
7 straightforward.

8 We had originally had planned to do the downtown
9 action plan presentation from Mr. Altman. He's been called away
10 so we're going to try to reschedule that at a later date.

11 So with that I think that everything is in order.

12

13 MR. BASTINA: Mr. Chairman, Item XII(B).

14 CHAIRPERSON HOOD: XII(B). Oh, okay. Mr.
15 Bastina, the Zoning Commissioners requested attendance at
16 upcoming BZA meetings and hearings.

17 MR. BASTINA: Yes. We, Mr. Chairman, we have
18 Zoning Commissioner for the January 9th meeting, I mean,
19 hearing, which is tomorrow. We have a Zoning Commission member
20 for January 16th, but I wanted to remind you, Mr. Hood, that now
21 because Mr. Holman will not be able to attend it, that we will
22 need you if that's okay.

23 CHAIRPERSON HOOD: Yes. That's fine. I've made
24 preparation to be here on the 16th.

25 MR. BASTINA: Okay. On January 23rd, Mr.

1 Franklin will be attending in the morning for the Burke School.

2 And then we have the civil infraction cases.

3 And Mr. Hood was supposed -- proffered to be here
4 for that, for those cases in the afternoon.

5 CHAIRPERSON HOOD: I may have to recuse myself on
6 those.

7 MR. BASTINA: Okay.

8 CHAIRPERSON HOOD: Let me think about it. I may
9 have to get Ms. Mitten, who voted on a couple of them already,
10 to finish voting. I have to see if the two that I was involved
11 with are still on the docket. If they are, then I'm going to
12 recuse myself.

13 MR. BASTINA: Okay, Mr. Chairman. Then --

14 CHAIRPERSON HOOD: Not that I would vote any
15 other way, but --

16 CHAIRPERSON HOOD: Then it either will be you or
17 Ms. Mitten to be here for January 23rd in the afternoon?

18 CHAIRPERSON HOOD: Right.

19 MR. BASTINA: We have scheduled for 11 a.m. We
20 can be in touch with Ms. Mitten to minimize her time here. I
21 think that the Burke School might take a little longer than
22 anticipated.

23 MR. FRANKLIN: Yes, Mr. Bastina. It seemed to me
24 it would be very unusual for that matter to be finished by 11 in
25 the morning.

1 MR. BASTINA: I agree with you, Mr. Franklin.
2 And that's why I am suggesting that Ms. Mitten will be on call.
3 I will be able to notify her with enough time for her to be
4 here if that is her pleasure.

5 VICE CHAIRPERSON MITTEN: That would be fine.

6 CHAIRPERSON HOOD: Let me just also say, Mr.
7 Bastina, don't rule me out yet. I have to check and see again
8 what's on the docket. Because Ms. Mitten has -- I don't want to
9 overburden her. She does have a lot of cases. But if I'm able
10 to serve I will, but I want to make sure that I'm impartial.

11 MR. BASTINA: Yes. I can share that with you
12 after the meeting and tell you exactly what it would be
13 potentially to be heard because it depends from Corporation
14 Counsel. Other divisions, they have to provide certain
15 information or legal briefings, I should say.

16 On January 30th, Mr. Parsons will be here for the
17 public hearing. That's what I have Mr. Parsons; is that
18 correct?

19 MR. PARSONS: Correct.

20 MR. BASTINA: Okay. For February the 9th, we
21 have Ms. Mitten for the first case in the morning.

22 VICE CHAIRPERSON MITTEN: I think that's the sixth.

23 MR. BASTINA: I'm sorry. Yes, the sixth.

24 VICE CHAIRPERSON MITTEN: I mean if I'm coming in
25 the morning I'd be happy to stay for the afternoon.

1 MR. BASTINA: It's George Washington University.

2

3 VICE CHAIRPERSON MITTEN: Well, all we have
4 though is that scheduled for the morning.

5 MR. BASTINA: Right. Correct, and then you don't
6 mind staying for the afternoon?

7 VICE CHAIRPERSON MITTEN: No.

8 MR. BASTINA: Thank you.

9 CHAIRPERSON HOOD: What about the -- I'm looking
10 at the old schedule. I see here where we have the Seward and
11 McBride appeal.

12 VICE CHAIRPERSON MITTEN: I'm on that, too.

13 CHAIRPERSON HOOD: Okay. So you have two things
14 in the morning then. Okay.

15 VICE CHAIRPERSON MITTEN: Yes.

16 CHAIRPERSON HOOD: So you're just going to take
17 that whole day. That's good.

18 VICE CHAIRPERSON MITTEN: Yes.

19 CHAIRPERSON HOOD: So what do we need, somebody
20 for the 13th?

21 MR. BASTINA: Right, and I have, believe it or
22 not, Ms. Mitten named for the Capitol Hill group pre-hearing.
23 Was that your case, Ms. Mitten?

24 VICE CHAIRPERSON MITTEN: Yes.

25 MR. BASTINA: Okay. And so we have Ms. Mitten

1 for the last case of the afternoon, the meeting. It would be
2 various Commission members or their proxies.

3 But then I need somebody for 16667, which is the
4 first case in the afternoon.

5 CHAIRPERSON HOOD: Let me just say, Ms. Mitten's
6 already coming in for the last case that she's already heard.
7 Am I correct?

8 VICE CHAIRPERSON MITTEN: Yes.

9 CHAIRPERSON HOOD: Somebody else -- we can come
10 in the morning, but if that's too much just let --

11 VICE CHAIRPERSON MITTEN: Why don't we do this?
12 Why doesn't somebody else take the afternoon of the sixth since
13 that's more of an organized way for someone to come? And then
14 I'll take the entirety of the 13th so that we don't have to have
15 people coming, you know, and, you know, trading off cases
16 because that's very inefficient.

17 CHAIRPERSON HOOD: Do you think the BZA will be
18 finished by six o'clock? Because I have another meeting I need
19 to be at at seven on the sixth. So that might preclude me from
20 serving on the sixth.

21 MR. BASTINA: Well, Mr. Chairman, you can always
22 say that you need to leave at six and you need to finish the
23 hearing at that time. It might or might not be completed.

24 CHAIRPERSON HOOD: Okay. That's fine. I will do
25 the afternoon of the -- unless one of my other colleagues wants

1 to do it. I will do the afternoon of the sixth. Take some of
2 the burden off.

3 Now let me make sure. Can you run through that
4 again so we can make sure we are all on the same page starting
5 from the sixth?

6 MR. BASTINA: Of February? Sure.

7 CHAIRPERSON HOOD: Yes.

8 MR. BASTINA: You bear with me for a minute?

9 CHAIRPERSON HOOD: Sure.

10 MR. BASTINA: Starting with February 6th, Ms.
11 Mitten will be here in the morning. Mr. Hood will be here in
12 the afternoon. And then on February 13, Ms. Mitten will be here
13 all day.

14 VICE CHAIRPERSON MITTEN: That's right.

15 MR. FRANKLIN: Mr. Bastina.

16 MR. BASTINA: Yes, Mr. Franklin?

17 MR. FRANKLIN: I don't see anything on the
18 schedule relating to the Georgetown University decision. Now, I
19 understand that there had been a meeting which I had not been
20 informed of for that decision, and on that day I did get the
21 draft order and made some comments on it.

22 Is the Board going to meet again to look at that
23 final order before it is issued?

24 MR. BASTINA: Mr. Franklin, let me -- the answer
25 is I don't have the answer for you. Maybe Ms. Sansone might

1 know. Otherwise I will obtain it for you.

2 Mary, do you know that, the answer to that? If
3 there is another meeting scheduled to discuss the proposed order
4 that was already discussed for Georgetown University?

5 MS. SANSONE: I'm not familiar with that case.
6 It's Marry Nagelhout's case.

7 MR. BASTINA: Okay. Mr. Franklin, can I advise
8 you on that matter right after the meeting ends?

9 MR. FRANKLIN: Yes. That's fine.

10 MR. BASTINA: Okay. I'll do so. Thank you.

11 CHAIRPERSON HOOD: Okay. Seems that everything
12 is in order. I'm looking here. It look like we have went
13 through our whole agenda. I'm sure it probably won't --

14 MR. BASTINA: Yes, Mr. Chairman. Enjoy it while
15 it lasts.

16 CHAIRPERSON HOOD: Right. Right. Okay. If
17 everything is in order, any closing comments?

18 (No response.)

19 CHAIRPERSON HOOD: Okay. Well, if everything's
20 in order, colleagues, this meeting is adjourned.

21 MR. BASTINA: Thank you. Thank you, Mr.
22 Chairman.

23 (Whereupon, at 1:57 p.m., the meeting was
24 concluded.)