

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

PUBLIC HEARING

+ + + + +

IN THE MATTER OF:

Text Amendment to Regulate Firearms Retail Sales Establishments	Case No. 08-20
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Thursday,
February 26, 2009

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

The Public Hearing of Case No. 08-20 by the District of Columbia Zoning Commission convened at 6:30 p.m. in the Office of Zoning Hearing Room at 441 4th Street, N.W., Washington, D.C., 20001, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman
MICHAEL G. TURNBULL, FAIA, Commissioner
(OAC)
PETER MAY, Commissioner (NPS)

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OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER

JOEL LAWSON

ARLOVA JACKSON

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

The transcript constitutes the minutes from the Public Hearing held on February 26, 2009.

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

2 6:37 p.m.

3 CHAIRMAN HOOD: Good evening,
4 ladies and gentlemen. This is a public
5 hearing of the Zoning Commission of the
6 District of Columbia for Thursday, February
7 26th.

8 My name is Anthony Hood. Joining
9 me are Commissioners May and Turnbull.

10 We are also joined by the Office of
11 Zoning Staff, Ms. Schellin and also the Office
12 of Attorney General, Ms. Nagelhout, the
13 Office of Planning, Ms. Steingasser and Ms.
14 Jackson and Mr. Lawson.

15 This proceeding is recorded by a
16 court reporter. It is also webcast live.
17 Accordingly, we must ask you to refrain for
18 any disruptive noises or actions in the
19 hearing room.

20 The subject of this evening's
21 hearing is Zoning Commission Case Number 08-
22 20. This is a request by the Office of

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1 Planning for Text Amendments to the Zoning
2 Regulations to allow for the regulations of
3 firearms -- firearm retail establishments.

4 Notice of today's hearing was
5 published in the D.C. Register on December
6 26th, 2008 and copies of the announcement are
7 available to my left on the wall near the
8 door. The hearing will be conducted in
9 accordance with 11 DCMR 3021 as follows:
10 Preliminary matters, presentation by the
11 Office of Planning, reports of other
12 government agencies, reports of all of the
13 ANCs which is all, organizations and persons
14 in support, organizations and persons in
15 opposition.

16 The following time constraints will
17 be maintained in this hearing: Organizations
18 five minutes, individuals three minutes.

19 All persons appearing before the
20 Commission are to fill out two witness cards.

21 These cards are located to my left on the
22 table near the door.

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1 Upon coming forward to speak to the
2 Commission, please turn on your microphone and
3 identify yourself. When you are finished,
4 please turn your microphone off. When you are
5 finished speaking, please turn your microphone
6 off so the microphone is not longer picking up
7 sound or background noise.

8 To avoid any appearance to the
9 contrary, the Commission requests that persons
10 present not engage the members of the
11 Commission in conversations during a recess or
12 anytime.

13 The staff will be available for any
14 procedural questions.

15 Please turn off all beepers and
16 cell phones at this time so not to disrupt
17 these proceedings.

18 At this time, the Commission will
19 consider any preliminary matters. Does the
20 staff have any preliminary matters?

21 MS. SCHELLIN: No, sir.

22 CHAIRMAN HOOD: Okay. We will turn

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1 to the Office of Planning. Ms. Jackson.

2 MS. JACKSON: Good evening, Chair,
3 Members of the Commission. For the record, my
4 name is Arlova Jackson and I'm a Development
5 Review Specialist for the D.C. Office of
6 Planning.

7 The Zoning Commission Case Number
8 08-20 is for a Text Amendment to the Zoning
9 Regulations to regulate the retail sale of
10 firearms.

11 Several changes have been made the
12 initial emergency text amendment in response
13 to comments made at the first public hearing
14 and based on consultations with other District
15 agencies including the Metropolitan Police
16 Department and the Office of the Attorney
17 General.

18 Just to provide a brief history of
19 the process, the Office of Planning initiated
20 emergency text amendments on July 28th, 2008
21 which were adopted by the Zoning Commission on
22 the evening.

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1 On September 29th, 2008, the Zoning
2 Commission held the first public hearing on
3 this issue, heard and received public
4 testimony and requested additional information
5 from staff.

6 After completion of additional
7 research, revised text was presented to the
8 Zoning Commission at its November 20th, 2008
9 public meeting. At that time, the Zoning
10 Commission opted to adopt the revised text
11 amendment on an emergency basis and schedule
12 the second public hearing to allow for
13 additional public comment.

14 No additional changes to the text
15 have been made since that time.

16 So, in short, the Office of
17 Planning continues to recommend that the
18 Zoning Commission adopt the following text
19 amendments.

20 First, to add a definition of
21 firearms and firearm retail sales
22 establishments, to amend chapters 5, 6, 7, 8

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1 and 9, to permit firearm retail sales
2 establishments as an as of right use in the
3 C2, C3, C4, C5, CM and M districts and
4 conversely not permit firearm retail sales as
5 a principal or accessory use in any other
6 district and to prohibit firearm retail sales
7 establishments as home occupations.

8 With that, I'll take any questions
9 that you have at this time.

10 CHAIRMAN HOOD: Okay. Thank you
11 very much, Ms. Jackson.

12 Who'd like to ask -- Commissioner
13 May.

14 COMMISSIONER MAY: Yes, I presume
15 that you have a copy of the two letters that
16 we received from the ANCs.

17 MS. JACKSON: Yes.

18 COMMISSIONER MAY: And one I can't
19 remember which one commented that they --

20 COMMISSIONER TURNBULL: It was ANC
21 2E.

22 COMMISSIONER MAY: ANC 2E

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1 recommended that the distance be reset at 600
2 as opposed to 300 feet from certain uses,
3 church, school, library, playground and I'm --
4 and I reread the paragraph in your original
5 report on reducing the radius restriction and
6 I was just wondering if you had further
7 comment or anything to add about that
8 particular topic and whether you're standing
9 your ground on 300 feet and don't see a reason
10 to reconsider.

11 MS. JACKSON: We are. It's
12 difficult. We were trying to balance the
13 concerns initially proposed about safety with
14 also providing adequate opportunities for
15 people to actually be able to open up a retail
16 gun store and so, the 600 feet was derived
17 from our modeling the regulations after
18 sexually-oriented business establishments.

19 But, after further discussion about
20 the procedure in terms of how these locations
21 are reviewed by both the ATF and the
22 Metropolitan Police Department, most of the

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1 location restrictions were aimed at issues of
2 safety and since there are two prior reviews
3 for each location before it even gets to --
4 before it even comes to us, we felt that
5 requiring such a distance and severely
6 limiting the opportunities in that way seemed
7 duplicative and unnecessary.

8 And, in addition, there aren't that
9 many communities that currently regulate gun
10 stores in this way through zoning regulations,
11 but of the ones that do, many of them have
12 location restrictions. But, they vary widely.

13 I think of the communities we found they vary
14 between 250 to 1,000 feet from similar uses.
15 So, there wasn't -- there wasn't a clear
16 standard to follow. We were just trying to
17 strike a balance.

18 COMMISSIONER MAY: Okay.

19 MS. STEINGASSER: If I could also
20 add, the Commission has asked that we invite a
21 representative from the Metropolitan Police
22 Department to attend. Lieutenant Shelton has

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1 graciously attended this hearing. If you have
2 any questions on the licensing side of things,
3 he's also available.

4 COMMISSIONER MAY: Thanks.

5 CHAIRMAN HOOD: Any --

6 COMMISSIONER TURNBULL: I just
7 wanted to follow up on that same line of
8 questioning. So, from a jurisdictional
9 standpoint, you didn't see any overwhelming
10 indication that 600 feet was more prominent
11 that anything else or I mean the letter for
12 the -- letter from ANC 2E says -- they made a
13 point about how its consistence with what
14 other cities have implemented, but that sounds
15 contrary to what you're saying.

16 MS. JACKSON: I'd say it's a range.

17 I'd say of the cities I can't even say that
18 more were toward the high end of the range or
19 the low end of the range. I looked at the
20 table again and it was between 250 to 1,000
21 for the ones that actually, you know, use
22 zoning --

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1 COMMISSIONER TURNBULL: Use that
2 type of a method to --

3 MS. JACKSON: Correct.

4 COMMISSIONER TURNBULL: Okay.
5 Thank you.

6 CHAIRMAN HOOD: Okay. I don't
7 necessarily have any questions. Okay. My
8 colleagues -- okay. Excuse me. Report of
9 other government agencies. I didn't see
10 anything in the packet.

11 Report of ANCs. We have two
12 letters as noted by Commissioner May and
13 Turnbull from ANC 2E and 6B. 6B -- I'm sorry.

14 6B is saying at its regularly called and
15 properly noticed meeting on February 10th,
16 2009, with a quorum present, ANC 6B voted
17 unanimously to not oppose the regulations as
18 drafted.

19 Okay. And then also the distance
20 issue which was raised by 2E and we heard the
21 rationale from Ms. Jackson for that.

22 Okay. So noted.

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1 I'm going to ask Ms. Zartman, I
2 know you've signed up, so, I'm going to ask
3 you just -- I don't have the list in front of
4 me. So, I'm going to -- are you support or
5 opposition? Okay.

6 Do we -- let me just ask, do we
7 have anyone in the audience who is in support
8 of this and also let me back up. Let me
9 acknowledge commander -- is it commander?

10 MS. STEINGASSER: Lieutenant
11 Shelton.

12 CHAIRMAN HOOD: Lieutenant Shelton,
13 if you could just raise your hand, we want to
14 thank you. Thank you for coming down. We may
15 not have any questions for you.

16 Oh. Okay. Was there anyone here
17 tonight who would like to testify in support?
18 Any organizations or parties?

19 And the only person we have on our
20 list in opposition is Ms. Zartman. If you can
21 come forward.

22 Anyone who would like to testify in

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1 support or opposition -- I mean in opposition
2 can also join Ms. Zartman at the table.

3 MS. ZARTMAN: It's a day for
4 appearing at microphones.

5 I'm appearing tonight on behalf of
6 the Citizens Association of Georgetown whose
7 board has endorsed this statement.

8 First, I have to say we're grateful
9 to the Zoning Commission for holding the
10 hearing to allow public comment on the changes
11 to the proposed rule making establishing
12 parameters for location of handgun sales
13 stores.

14 The significant changes that have
15 been proposed to the original certainly merit
16 giving the public a chance to voice their
17 concerns and we have such concerns for the
18 safety and welfare of Georgetown families
19 including our 1200 paid members as well as the
20 thousands and thousands of students and
21 visitors who spend time in our community.

22 Our commercial corridors nearly

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1 always abut residential areas or are part of
2 mixed-use development. By shifting the entry
3 point for handguns sales to C-2 zones, the
4 Commission would be inviting these sales into
5 residential communities either around the
6 corner from a residence, downstairs from one,
7 across the street from one. Surely, this is
8 inconsistent with the intent to create a
9 buffer between gun shops and residential
10 zones.

11 And as to that buffer, we strongly
12 urge the Commission to return to at least the
13 600-foot standard that was part of the
14 original proposal. As the record indicates,
15 other cities use even greater distances for
16 their buffers around handgun sales.

17 There is another question about a
18 provision discussed at the earlier hearing.
19 Assuming a transaction is conducted completely
20 in compliance with District and Federal law,
21 how does the purchaser get the firearm home?

22 The transcript suggests requiring

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1 at least one parking space, but parking
2 requirements are waived for historic
3 districts. No waiver of the parking
4 requirement in historic districts should be
5 considered. The waiver is an important
6 component of the need to preserve the
7 integrity of the District. Businesses for
8 which purchasers must have parking for legal
9 transport of purchases cannot be located in
10 zones where parking requirements are waived.

11 According to the OP memo, MPD
12 apparently asks the Commission to consider
13 allowing location of gun shops on second
14 floors to discourage theft. This is not
15 comforting.

16 If MPD believes ground level gun
17 shops are targets for theft, they make the
18 best argument for protecting families,
19 visitors, shoppers and students from to
20 convenient handgun sales.

21 The Citizens Association of
22 Georgetown asks the Commission to restore the

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1 controls that were first -- that were in the
2 first version of the proposed rule making,
3 600-foot minimums, special exception review
4 and C-3 zones as the first zone in which
5 handgun sales would be permitted.

6 I'd point out that if large groups
7 of persons justify protective buffers around
8 churches and schools, the regular crowds on
9 Wisconsin Avenue and M Street surely justify
10 the changes we advocate.

11 We support the resolution enacted
12 by our Advisory Neighborhood Commission and
13 join in its request that you grant great
14 weight to its position.

15 And I'd be happy to answer any
16 questions you might have.

17 CHAIRMAN HOOD: Thank you, Ms.
18 Zartman and your ANC Commission is 2E. Right?

19 MS. ZARTMAN: 2E.

20 CHAIRMAN HOOD: 2E? Okay. Anyone
21 have any questions for Ms. Zartman? So --
22 okay.

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1 COMMISSIONER MAY: I'm sorry. I
2 didn't have a question for Ms. Zartman, but I
3 really was interested in hearing what the
4 Office of Planning would have to say in
5 response to in particular the parking issue
6 which I had focused on in the earlier hearing,
7 but the major points of her testimony.

8 MS. STEINGASSER: Well, this gets
9 to the issue that does give us comfort in that
10 the site itself is reviewed by MPD and ATF for
11 licensing requirements and if they find that
12 the lack of parking or any other physical
13 feature of the shop is threatening, it would
14 impact its licensing end of things not its
15 parking end.

16 Beyond that, I would have to ask
17 the Lieutenant to weigh in on how they review
18 that.

19 CHAIRMAN HOOD: Why don't we do
20 that if you don't mind, Ms. Steingasser?

21 Lieutenant Shelton -- I'm sorry.
22 Shelton, yes. You can come forward and if you

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1 don't mind weighing in and we're trying to get
2 the answers here, Ms. Zartman.

3 MS. ZARTMAN: Happy to have them.

4 CHAIRMAN HOOD: Okay.

5 LIEUTENANT SHELTON: Where -- would
6 you like me located here?

7 CHAIRMAN HOOD: Since we don't have
8 much room at the table, if you could just sit
9 right -- if you just identify yourself and
10 begin.

11 LIEUTENANT SHELTON: My name is
12 Lieutenant Jon --

13 CHAIRMAN HOOD: Turn your
14 microphone on.

15 LIEUTENANT SHELTON: I'm sorry. My
16 name is Lieutenant Jon J-O-N Shelton S-H-E-L-
17 T-O-N and I'm the Branch Commander of our
18 Firearms Registration Section and Gun Control
19 Units.

20 And well, let me -- I would first
21 like to clarify one thing that I think the
22 Board should be aware of. It has nothing to

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1 do with this, but I'll get to that real quick.

2 I just want to make sure that we're
3 all on the same page as that gun shops in the
4 District of Columbia are unique probably to
5 anywhere in the country. We do not allow what
6 -- when one refers to a gun shop, one may
7 refer to it as what we've all seen in other
8 jurisdictions. A gun shop. Guns for sales.
9 You know, gun powder. You know, rifle,
10 shotguns.

11 That's not what we're going to have
12 here in the District of Columbia. That's
13 prohibited. It's not prohibited under Federal
14 law. It's prohibited under Title 7 of the
15 D.C. Code.

16 What we have here is no storefront
17 operations will be permitted. You will not be
18 able to even have a sign on the building
19 saying guns for sale. It's prohibited. What
20 you'll have is an incognito office within an
21 office.

22 We have two dealers now in the

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1 District of Columbia. One deals with the
2 public and one is strictly a broker for
3 overseas sales.

4 Neither one of these you would even
5 know existed in the District of Columbia. One
6 is in -- well, without getting into where
7 they're located, they are small offices that
8 do not even keep stock on hand. They are
9 merely brokers to -- since the purchasing a
10 new handgun across state lines is prohibited,
11 it must be shipped to them. So, they're
12 merely brokers where they take the paperwork
13 and do it for the District of Columbia in
14 compliance with Federal law.

15 So, I just wanted to make sure that
16 we're all on the same page. That when you
17 think of a gun shop in the District of
18 Columbia, it's not going to be a glass
19 storefront operation with rifles and shotguns
20 in the windows with a sign guns for sale,
21 John's Gun Shop. It's going to be something
22 that you will not know even exists for the

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1 most part.

2 Are we okay on that? Should I move
3 on?

4 CHAIRMAN HOOD: I have some
5 questions, but I think Commissioner May had
6 the mike.

7 LIEUTENANT SHELTON: Sure.

8 CHAIRMAN HOOD: So, I'm going to
9 let you follow.

10 LIEUTENANT SHELTON: Are we square?

11 COMMISSIONER MAY: Yes, I -- this
12 description is certainly different from what
13 we've been portraying all along.

14 LIEUTENANT SHELTON: Sure. That's
15 why I wanted to put that out there up front.

16 COMMISSIONER MAY: So, does this
17 mean that there will -- you know, will the
18 premises of the firearms retail establishment
19 or whatever the exact term is --

20 LIEUTENANT SHELTON: Right.

21 COMMISSIONER MAY: -- will it
22 actually -- will there be guns on the

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1 premises?

2 LIEUTENANT SHELTON: Right now, we
3 have no -- we have --

4 COMMISSIONER MAY: No. No.

5 LIEUTENANT SHELTON: Will there be?

6 COMMISSIONER MAY: Will there be in
7 the future?

8 LIEUTENANT SHELTON: Could it?

9 COMMISSIONER MAY: Yes.

10 LIEUTENANT SHELTON: There could
11 be.

12 COMMISSIONER MAY: Okay.

13 LIEUTENANT SHELTON: It will allow
14 it, but the law says that the firearms that
15 are on the premises most be securely affixed
16 in a safe guard -- affixed to the premises.

17 COMMISSIONER MAY: Um-hum.

18 LIEUTENANT SHELTON: So, in other
19 words, you would have an office with maybe a
20 huge safe and the guns are kept within the
21 safe inside the office that is not
22 advertisable by -- on the premises.

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1 COMMISSIONER MAY: And --

2 LIEUTENANT SHELTON: Are you with
3 me on that?

4 COMMISSIONER MAY: Yes.

5 LIEUTENANT SHELTON: Okay.

6 COMMISSIONER MAY: Now, if someone
7 wants to buy one of those guns --

8 LIEUTENANT SHELTON: Correct.

9 COMMISSIONER MAY: -- the process
10 would be that they would come to that
11 establishment --

12 LIEUTENANT SHELTON: That's
13 correct.

14 COMMISSIONER MAY: And pick out the
15 gun they want from within the safe or whatever
16 means they have of protecting the --

17 LIEUTENANT SHELTON: Correct.

18 COMMISSIONER MAY: -- guns
19 themselves and then --

20 LIEUTENANT SHELTON: Now, we're
21 talking about handguns here.

22 COMMISSIONER MAY: I understand.

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1 LIEUTENANT SHELTON: Right.

2 COMMISSIONER MAY: And then
3 essentially place an order because they can't
4 walk out with a gun. You can't just go in,
5 lay your money down and walk out with a gun.
6 There's at least a 48-hour delay.

7 LIEUTENANT SHELTON: It's now --
8 now, it's ten days.

9 COMMISSIONER MAY: It's ten days.

10 LIEUTENANT SHELTON: Now, it's ten
11 days.

12 COMMISSIONER MAY: Okay. So, you
13 order your firearm.

14 LIEUTENANT SHELTON: Right.

15 COMMISSIONER MAY: And then you
16 come back in ten days and you can pick it up.

17 LIEUTENANT SHELTON: That's
18 possible.

19 COMMISSIONER MAY: That's possible.

20 LIEUTENANT SHELTON: Possible.
21 Correct.

22 COMMISSIONER MAY: Okay.

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1 LIEUTENANT SHELTON: So, right.
2 That's correct. You first would go to --
3 well, in the case that someone would decide to
4 open up a business in the District of Columbia
5 to keep a stock on hand, you're --

6 COMMISSIONER MAY: Um-hum.

7 LIEUTENANT SHELTON: -- even if
8 they did have stock on hand, they would not be
9 able to go in and leave with a gun.

10 COMMISSIONER MAY: Right.

11 LIEUTENANT SHELTON: It doesn't
12 work that way.

13 COMMISSIONER MAY: Right.

14 LIEUTENANT SHELTON: You go in and
15 you would pick out your gun like you said.
16 The seller, in this case, the dealer would
17 fill out his portion of the application. That
18 application would come to my office at 300
19 Indiana Avenue.

20 COMMISSIONER MAY: Um-hum.

21 LIEUTENANT SHELTON: Where he would
22 be tested, finger printed, a series of

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1 processes would go -- you know, of paperwork
2 would go along with that, sworn affidavits
3 attesting to his mental stability, all that
4 and then when -- when the fingerprint return
5 comes back from the FBI, that's usually the
6 next day, we are automated on live scans, it's
7 all done with glass now and electronically
8 shipped out, then one of my officials over
9 there, a sergeant would make the determination
10 on the eligibility. He would then stamp that
11 form approved. He would take it back to the
12 dealer at which point the dealer would release
13 the firearm to him.

14 COMMISSIONER MAY: Okay. Thanks.

15 LIEUTENANT SHELTON: Certainly.

16 CHAIRMAN HOOD: Commissioner
17 Turnbull.

18 COMMISSIONER TURNBULL: Are we the
19 -- is this the only jurisdiction that does
20 that then that you know of?

21 LIEUTENANT SHELTON: Well,
22 actually, there's a lot more that goes on with

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1 it than that. That's just the administrative
2 part.

3 In actuality now, the new law
4 requires a person to go out and get a four-
5 hour block of instruction for safe handling of
6 firearms. He must have a four-hour classroom
7 training, an hour on the range. That's now in
8 place with the new legislation.

9 Once he buys that weapon, he must
10 bring it to police headquarters where we do a
11 ballistics check of that firearm for a -- for
12 future references and library that ballistics
13 check.

14 So, I would say that along with
15 the series of what we have in place, we are
16 probably one of the more stringent if not the
17 most stringent in the country.

18 Now, you're talking about the
19 dealership-wise.

20 Well, no, we are -- could you
21 rephrase your question. I'm not sure of
22 exactly what you're asking me.

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1 You're asking me if the way that we
2 sell guns in the District of Columbia --

3 COMMISSIONER TURNBULL: Yes.
4 Right.

5 LIEUTENANT SHELTON: -- is unique.

6 COMMISSIONER TURNBULL: Yes.

7 LIEUTENANT SHELTON: It is now
8 because there's no one here that actually has
9 a dealer where they stock weapons.

10 COMMISSIONER TURNBULL: But, that
11 could change.

12 LIEUTENANT SHELTON: Somebody could
13 do that. Correct. The guy that has the
14 license now is a mere broker.

15 COMMISSIONER TURNBULL: Right.

16 LIEUTENANT SHELTON: In other
17 words, it is against Federal law to cross to
18 go to Maryland or Virginia and buy a handgun
19 and bring it back into the District of
20 Columbia. It's against Federal law.

21 So, they would have to ship it to
22 the gentleman that is licensed now --

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1 COMMISSIONER TURNBULL: I see.

2 LIEUTENANT SHELTON: -- and he
3 would not become the seller and then he would
4 sell it to the individual.

5 Now, a rifle or shotgun is
6 different. I could go to Maryland or Virginia
7 to any gun dealer, buy my rifle or shotgun,
8 come to gun control, get it approved, go back
9 and get it and take it home. The law is very
10 different for rifles and shotguns. It's much
11 more lenient. But, when it comes to the hand
12 guns, you must purchase the handgun from the
13 jurisdiction in which you reside.

14 COMMISSIONER TURNBULL: Okay.

15 LIEUTENANT SHELTON: Okay.

16 COMMISSIONER TURNBULL: Thank you.

17 LIEUTENANT SHELTON: But, to answer
18 your question, yes, it is possible for
19 somebody to -- and there has been one person
20 that has expressed interest in that, in
21 opening up a dealer here in the District of
22 Columbia and keeping a limited stock on hand

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1 so that the person could come in and get the
2 feel of what type of weapon they may want. He
3 may keep a dozen models.

4 COMMISSIONER TURNBULL: Right.

5 LIEUTENANT SHELTON: And, you know,
6 from the smaller Derringer type to a larger 45
7 caliber or a 40 caliber or a .357 so that the
8 customer can get a feel of what they want.
9 But, they wouldn't get that gun. Then he
10 would place the order and have it shipped in.

11
12 But, he would have a very limited
13 supply. But, he could also -- he could also
14 keep a stock on hand for sale as well.

15 COMMISSIONER TURNBULL: Thank you.

16 LIEUTENANT SHELTON: You're
17 welcome.

18 CHAIRMAN HOOD: Lieutenant, let me
19 -- I think the process is great. I'm going to
20 start with the advertisement of it.

21 LIEUTENANT SHELTON: Okay.

22 CHAIRMAN HOOD: You mentioned early

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1 on -- you said that if it's in my
2 neighborhood, I may not even know it's there.

3 LIEUTENANT SHELTON: I would say
4 that the people without even -- you know, I'd
5 really rather not discuss where the two are
6 located at now. Although, it's easy to find
7 out. I mean you go to the yellow pages or --

8 CHAIRMAN HOOD: I think we have
9 some testimony on one location, but anyway.

10 LIEUTENANT SHELTON: Sure. Yes,
11 but -- but, yes, you would not know that it
12 was there. You would have no clue.

13 CHAIRMAN HOOD: So, if I wanted to
14 purchase --

15 LIEUTENANT SHELTON: No clue.

16 CHAIRMAN HOOD: Okay. But, if I
17 wanted to purchase one --

18 LIEUTENANT SHELTON: Right.

19 CHAIRMAN HOOD: I guess I would
20 have to go through all that to find out where
21 it is I can go purchase one.

22 LIEUTENANT SHELTON: Well, if you

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1 wanted to purchase one like I said since we
2 have nowhere currently in D.C. that's
3 maintaining an inventory, if you want to --
4 can I use an example of Maryland Small Arms.
5 It's out in Upper Marlboro by the Air Force
6 Base and they would sell you the gun. They
7 would tell you who the gun is going to be
8 shipped to.

9 CHAIRMAN HOOD: Okay.

10 LIEUTENANT SHELTON: And we
11 distributed that information to all the
12 dealers. When this -- when we lost the Heller
13 Case and we knew what we were going to
14 possibly be facing, we met with ATF at ATF
15 Field Office, myself and the Director of ATF,
16 Field Office and we gave a large seminar to
17 all the dealers in the area explaining to them
18 the new laws and how it would have to -- how
19 they would have to work it.

20 So, that's correct. If you -- you
21 would go buy a gun at Maryland Small Arms,
22 they would ship it via common carrier or the

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1 dealer here may go out and pick it up. He has
2 that right holding a Federal firearms license
3 to cross state line to go get that gun --

4 CHAIRMAN HOOD: Okay.

5 LIEUTENANT SHELTON: -- and bring
6 it back into the District of Columbia.

7 But, you would have no clue.

8 CHAIRMAN HOOD: No clue.

9 LIEUTENANT SHELTON: No clue that
10 either of the two dealers in D.C. even exist.

11 CHAIRMAN HOOD: Let me ask. Is
12 that a departure from what -- I remember years
13 ago and Peter -- Commissioner May may remember
14 this. He's a little older than I am.

15 COMMISSIONER MAY: Yes.

16 CHAIRMAN HOOD: But, I remember
17 what was the Herman's Sport Shop --

18 LIEUTENANT SHELTON: That's
19 correct. Right. Right.

20 CHAIRMAN HOOD: -- here in the
21 city. They sold weapons.

22 LIEUTENANT SHELTON: They did.

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1 CHAIRMAN HOOD: And --

2 LIEUTENANT SHELTON: Herman's.

3 CHAIRMAN HOOD: Yes, so --

4 LIEUTENANT SHELTON: Herman's
5 Sports.

6 CHAIRMAN HOOD: Herman's Sports and
7 again Peter would know more than I would on
8 that.

9 LIEUTENANT SHELTON: Yes.

10 CHAIRMAN HOOD: But, there's a
11 departure it seems like as far as
12 advertisement from those days and I know times
13 have changed --

14 LIEUTENANT SHELTON: Right.

15 CHAIRMAN HOOD: -- to these days.
16 Is that just in this jurisdiction that we've
17 decided to go that way or is that -- in
18 Mississippi, for the sake of this discussion,
19 is that -- I'm not asking you exactly how they
20 advertise. I think it's open like that now.
21 Is that what we're commonly seeing across the
22 country?

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1 LIEUTENANT SHELTON: For the most
2 part, yes.

3 CHAIRMAN HOOD: Okay. It's just
4 going to --

5 LIEUTENANT SHELTON: Yes. I would
6 say that, you know, without doing a full study
7 of every state, I would say that yes, the
8 District of Columbia is unique in that its
9 dealers are -- in 1976 when the City Council
10 passed the Firearms Control Act, it was put in
11 their then which essentially eliminated those
12 storefront operations.

13 Now, let me give you an example of
14 something else that -- a sporting goods store
15 that's existent now, for example, there's a
16 Model's Sporting Goods out on Benning Road.

17 CHAIRMAN HOOD: Um-hum.

18 LIEUTENANT SHELTON: And I
19 anticipated a larger influx of applicants when
20 we lost our case. I really did. Which is
21 quite the contrary.

22 Model's Sporting Goods Store could

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1 apply for a Federal firearms license and
2 although they are a storefront operation for
3 sporting goods, their firearms would have to
4 be in a separate part of the store affixed to
5 the premises. So, it would have to be maybe a
6 separate room in the back that stored the
7 firearms in a safe where they were not visible
8 to the public and separate from the -- you
9 know, from the normal stock of footballs and
10 basketballs and things of that nature.

11 And once again, ATF goes out there
12 first as Jennifer described. ATF will go
13 there first and they'll take a look at it and
14 then once you get that Federal firearms
15 license, that allows you to come to me to get
16 the D.C. license to sell guns and then we go
17 out and take a look.

18 CHAIRMAN HOOD: Are you the only
19 person in the city that we can come to or you
20 have a staff or how does that --

21 LIEUTENANT SHELTON: We have a
22 staff.

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1 CHAIRMAN HOOD: Okay.

2 LIEUTENANT SHELTON: Correct. But,
3 for something of that nature, I have a
4 sergeant and four officers assigned to that
5 unit. But, I would probably take that on
6 myself. I've been the District's gun expert
7 since -- you know, for many years and when it
8 comes to the licensing and regulations, I've
9 been in charge of that unit as a sergeant back
10 in '93. So, I would probably want to -- I
11 would probably want to handle that situation
12 myself.

13 CHAIRMAN HOOD: Now, as an expert,
14 you may have already answered this and I might
15 not have been here at the time, thinking here,
16 but anyway 600 feet/300 feet, have you heard
17 -- you've heard that argument.

18 LIEUTENANT SHELTON: I have.

19 CHAIRMAN HOOD: Does that make a --
20 well, it makes a difference, but does it make
21 a difference? That's a loaded question.

22 LIEUTENANT SHELTON: That is a

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1 loaded question. Man, I -- well, I mean -- I
2 believe Baltimore is 300 feet. I believe
3 Baltimore is 300 feet and I think that if --
4 it would make more of a difference -- without
5 kind of trying to skirt your question, I think
6 it would make more of a difference if you had
7 a storefront operation where guns were visible
8 and you knew that there was a gun dealer
9 there. Then I would certainly say the longer
10 the distance the better.

11 But, in the case where you're not
12 even going to -- it's going to -- you're not
13 even going to know it exists for the most
14 part, that it's going to be an office within
15 an office, it could be an office in -- I'm not
16 -- you know, this chart confuses me.

17 As I told Jennifer, I'm not a
18 zoning expert by any means. My expertise is
19 in firearms, but I think that with the way
20 that our law is set up regulating how a dealer
21 has his operation set, you know, I'm
22 comfortable. I'm just a lieutenant, but I

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1 mean I -- you know, I think that the law now
2 at 300 feet is adequate for those reasons.

3 CHAIRMAN HOOD: Okay.

4 LIEUTENANT SHELTON: And the point
5 is that you're not going to know that --

6 CHAIRMAN HOOD: And you answered my
7 question, I think, exact -- because I -- you
8 know, with the process involved and the
9 distance. Now, if it was a storefront, then I
10 might be a little -- I'm going to go back to
11 Ms. Zartman and want to hear what she says.

12 LIEUTENANT SHELTON: Yes. Yes.
13 Yes.

14 COMMISSIONER TURNBULL: Well, I
15 mean it sounds like the Council law that was
16 passed basically prohibits a storefront
17 operation of visible guns.

18 LIEUTENANT SHELTON: Well, it was -
19 - actually, that was passed under the Federal
20 -- I'm sorry, the Firearms Control Act of
21 1976. So, that was -- the City Council passed
22 that then.

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1 COMMISSIONER TURNBULL: So, that
2 basically though --

3 LIEUTENANT SHELTON: Has not
4 changed.

5 COMMISSIONER TURNBULL: But, under
6 that, it does prohibit like basically a
7 storefront operation?

8 LIEUTENANT SHELTON: Absolutely.
9 Correct.

10 COMMISSIONER TURNBULL: Okay.

11 LIEUTENANT SHELTON: Yes, a store -
12 - yes. Yes.

13 COMMISSIONER TURNBULL: Thanks.

14 LIEUTENANT SHELTON: You're
15 welcome.

16 COMMISSIONER MAY: Mr. Chairman, I
17 just wanted to clarify for the record that
18 while I do have a few years on you, I moved to
19 the District in '77. So, it's past the Act of
20 '76.

21 CHAIRMAN HOOD: Okay. Here for
22 that clarification.

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1 Ms. Zartman, now, we've heard the
2 process and I'm looking at your -- I think the
3 issue about the parking space was -- I don't
4 know if it was answered satisfactorily to you,
5 but I wanted to ask you about this buffer.

6 After you're hearing Lieutenant
7 Shelton's response to my question, does that
8 give you more of a comfort level especially
9 with the storefronts not be allowable? Let me
10 hear from you.

11 MS. ZARTMAN: No storefronts is
12 better, but where I'm sensing a disconnect is
13 from the testimony. I did the record, the
14 transcript and Councilmember Mendelson was
15 talking about gun dealers being our friends.
16 We want more of them so that handguns trade
17 hands in a licensed processed and we can track
18 guns.

19 The fact that we currently have
20 only two dealers in the District seems at odds
21 with that objective of the Chairman of the
22 Council Judiciary Committee. Somewhere

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1 there's a disconnect.

2 It seemed as though he was
3 pressing, I'm sorry, rule making that would
4 make it easier to operate gun shops so that
5 the transfer of guns could be licensed,
6 observed, regulated.

7 This sounds like we got two.
8 That's all we're likely to have. Maybe a
9 little more and if that's the case, why not
10 adopt 600 feet? Why not adopt stringent
11 standards?

12 If we're only going to have two or
13 three in the entire District of Columbia,
14 don't burden communities with the worry about
15 somebody setting up a gun safe in the garage.

16 CHAIRMAN HOOD: I'm listening to
17 the comments from Lieutenant Shelton and the
18 Office of Planning and it appears that -- I
19 actually heard some reports and it just
20 appears that nobody's knocking the door down
21 to obtain anything.

22 LIEUTENANT SHELTON: That's

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1 correct. We've received -- we've received a
2 few applicants. What happens is when you --
3 your very first step in processing, becoming a
4 gun shop is you must apply to the Bureau of
5 Alcohol, Tobacco and Firearms for your Federal
6 firearms licensed. That's issued normally in
7 about 60 days out of Atlanta, Georgia.

8 When they apply for that, they must
9 send me or the Chief of Police a notice that
10 they are applying for that and we've only
11 received just a couple and of those -- of
12 those -- now, this is since June. Of those,
13 none have come to fruition. There have been
14 -- none have come to me with an FFL since the
15 Heller case stating that they want to -- with
16 an FFL in their hands saying I want to open up
17 a storefront or --

18 CHAIRMAN HOOD: If it's
19 permissible, can you tell us what an FFL is?

20 LIEUTENANT SHELTON: Federal
21 Firearms License.

22 CHAIRMAN HOOD: Oh. Okay. Thank

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1 you.

2 LIEUTENANT SHELTON: Certainly. I
3 apologize. I --

4 CHAIRMAN HOOD: That's all right.
5 I should have known what an FFL was.

6 LIEUTENANT SHELTON: That's okay.
7 Not a problem. So, of those two, one withdrew
8 and the other one just -- he just never -- so
9 far has not like I said brought that to
10 fruition. So, we have no -- I have no current
11 applications for any firearms dealers in the
12 District of Columbia.

13 CHAIRMAN HOOD: Commissioner May.

14 COMMISSIONER MAY: If I didn't
15 already live in the District and I were moving
16 to the District and I happened to own a
17 firearms, a handgun --

18 LIEUTENANT SHELTON: Right.

19 COMMISSIONER MAY: -- can I bring
20 it with me and have it in my home?

21 LIEUTENANT SHELTON: If you live in
22 Maryland or Virginia and you're moving into

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1 the District of Columbia --

2 COMMISSIONER MAY: Yes.

3 LIEUTENANT SHELTON: -- can you
4 bring it and --

5 COMMISSIONER MAY: Yes.

6 LIEUTENANT SHELTON: Yes, there is
7 a process for that.

8 COMMISSIONER MAY: There is a
9 process for that.

10 LIEUTENANT SHELTON: Yes,
11 absolutely. Every firearm is registered.

12 COMMISSIONER MAY: Um-hum.

13 LIEUTENANT SHELTON: And the rules
14 regulating that would be different for
15 somebody that already owns the gun. You
16 wouldn't have to go through the normal
17 procedures of going through a dealer --

18 COMMISSIONER MAY: Right.

19 LIEUTENANT SHELTON: -- since you
20 already own it.

21 COMMISSIONER MAY: Right.

22 LIEUTENANT SHELTON: You come to us

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1 and fill out the forms.

2 COMMISSIONER MAY: Right.

3 LIEUTENANT SHELTON: We would
4 fingerprint you.

5 COMMISSIONER MAY: Um-hum.

6 LIEUTENANT SHELTON: Do a
7 background check on you. Once we determined
8 your eligibility under D.C. law, we would
9 approve that and once again, do the ballistics
10 check on it as well, give you the exam, go
11 through the whole process. You just would not
12 have to go through a dealer if you already
13 owned it. It's only against the law to go
14 across state lines and buy it if you're a
15 District resident and bring it back into the
16 District of Columbia.

17 COMMISSIONER MAY: Um-hum.

18 LIEUTENANT SHELTON: It must be
19 shipped to the dealer.

20 COMMISSIONER MAY: Um-hum.

21 LIEUTENANT SHELTON: But, if you
22 come in and we get it all the time, I move

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1 here from Wyoming. I've got 11 guns, you
2 know. Well, then, of course, you're allowed
3 to come into the District of Columbia and
4 notify us, the Metropolitan Police Department,
5 that you're moving into the District of
6 Columbia. Bring those firearms down to police
7 headquarters where we can check the
8 specifications on the guns to make sure that
9 they comply with local law. You know, we
10 measure the barrel -- the barrel length and
11 all that sort of --

12 COMMISSIONER MAY: Right.

13 LIEUTENANT SHELTON: -- thing and
14 we would allow you to register that gun in the
15 District of Columbia. Yes.

16 COMMISSIONER MAY: Okay. And --

17 LIEUTENANT SHELTON: Or if we
18 disapproved you, then we would send you a
19 notarized form certified and sent certified
20 mail informing you that your application has
21 been denied for whatever reason and we would
22 give you the avenues of appeal and the avenues

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1 of disposing of the firearm.

2 COMMISSIONER MAY: Um-hum. Are the
3 two existing dealers have they been picking up
4 a lot of extra business with people now
5 wanting to own handguns within the District
6 because that's the only way you can acquire
7 them. Right?

8 LIEUTENANT SHELTON: Well, as I --
9 I stated earlier, one gentleman will not --
10 refuses -- he's an elderly gentleman that does
11 it as a novelty.

12 COMMISSIONER MAY: Um-hum.

13 LIEUTENANT SHELTON: Like I said he
14 buys weapons and by -- from the manufacturer
15 and ships them to the various airports where
16 they are shipped overseas. So, he never even
17 sees a gun. He is nothing but a paper man.

18 COMMISSIONER MAY: Right. Right.

19 LIEUTENANT SHELTON: The other
20 individual who is our only public transfer --
21 to answer your question yes, he is -- has
22 experienced a -- he's the only guy in town.

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1 He's the only guy in town. So, he's doing all
2 of the -- all of the gun purchases and
3 transfers in the District of Columbia and I
4 apologize. I had statistics to bring with me
5 and I got tied up in a meeting across the
6 street at headquarters and I have those, but
7 we've given out approximately 1300
8 applications so far for firearms.

9 COMMISSIONER MAY: Okay. More
10 information than I wanted to know anyway.

11 LIEUTENANT SHELTON: Sure.

12 COMMISSIONER MAY: But, thanks,

13 LIEUTENANT SHELTON: I understand.
14 My apologies.

15 COMMISSIONER MAY: No. No, that's
16 -- thank you.

17 CHAIRMAN HOOD: The only other
18 question that I have and I wanted to ask this
19 question to the Office of Planning because Ms.
20 Zartman talked about the -- well, about what
21 the Councilmember, the Chair of the Judiciary
22 Committee had asked for.

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1 Ms. Steingasser, was there a
2 collaboration. I thought we left the last
3 hearing and there was going to be a
4 collaboration of the people who testified in
5 the --

6 MS. STEINGASSER: Yes, there was.
7 We met several times with Councilman
8 Mendelson, with the Attorney General Peter
9 Nickles, OAG Staff and MPD and Mr. Shelton and
10 we came to an agreement on these regulations.

11 CHAIRMAN HOOD: Okay. Any other
12 questions for either one? Either Lieutenant
13 Shelton or Ms. Zartman. Okay. I want to
14 thank you both. We appreciate you coming
15 down.

16 MS. ZARTMAN: Certainly.

17 LIEUTENANT SHELTON: You're more
18 than welcome.

19 CHAIRMAN HOOD: Okay. And, Ms.
20 Zartman, always a pleasure to see you and
21 thank you for your hard work and your
22 testimony.

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1 I want you to know that we do not
2 take it lightly. We always --

3 MS. ZARTMAN: Well, I thank you
4 very much. When you're kind of enough to
5 leave another hearing or to create another
6 hearing to hear opinions, somebody ought to at
7 least show up.

8 CHAIRMAN HOOD: Thank you. Okay.
9 What do we -- let me ask first is anyone
10 compelled -- you've heard the argument about
11 the distance. Is anyone compelled to go on
12 back to, what was it, 600 -- 600 feet? Anyone
13 compelled?

14 COMMISSIONER MAY: No, I'm -- you
15 know, I understand the sensitivity, but now
16 that I understand better what the nature of
17 the operation would be of the firearms
18 establishment, you know, I don't have that
19 same concern. This is not going to be a, you
20 know, walk in and walk out kind of arrangement
21 and it's not going to be known to many of the
22 neighborhood when it -- where they -- the

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1 neighborhoods where they exist. It's just
2 going to be another commercial operation. One
3 among hundreds hopefully in that area.

4 CHAIRMAN HOOD: Right. Well, are
5 we ready to proceed?

6 COMMISSIONER TURNBULL: Yes, I
7 think after hearing Lieutenant Shelton
8 describe what the local council -- the
9 enactment -- the regulations on what a shop
10 can be, I think that clarifies an awful lot.
11 I think that's very helpful and I think that
12 it takes away a lot -- in my mind, a lot of
13 the angst about opening a store like this and
14 I think the fact that we already stated that
15 it is not a residential use, you can't, as Ms.
16 Zartman said, have a supply in your garage.
17 I'm -- I think I'm satisfied. We can move
18 ahead on this.

19 CHAIRMAN HOOD: Okay. Well,
20 hearing that, I don't think I have anything
21 else more that I can add other than discussion
22 of what my colleagues have already said.

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1 I would move that we approve Zoning
2 Commission Case Number 08-20 as written and
3 ask for a second.

4 COMMISSIONER MAY: Second.

5 CHAIRMAN HOOD: Moved and properly
6 seconded. Any further discussion?

7 Ms. Nagelhout, are we moving -- is
8 that -- can we -- okay. All right. All those
9 in favor?

10 (Ayes.)

11 CHAIRMAN HOOD: Hearing no
12 opposition, there's only three of us, Ms.
13 Schellin, could you record the vote?

14 MS. SCHELLIN: Yes, sir, staff
15 records the vote 3 to 0 to 2 to approve
16 proposed action on Zoning Commission Case
17 Number 08-20. Commissioner Hood moving.
18 Commissioner May seconding. Commissioner
19 Turnbull in support. Commissioners Jeffries
20 and Keating not present not voting.

21 CHAIRMAN HOOD: And do we have
22 anything else?

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MS. SCHELLIN: No, sir.

CHAIRMAN HOOD: Okay. With that, I want to thank everyone for coming down. We appreciate your comments and your participation and interest in this case. This meeting -- I mean this hearing is adjourned.

(Whereupon, the hearing was concluded at 7:19 p.m.)

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