

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

REGULAR PUBLIC MEETING

+ + + + +

MONDAY

MARCH 9, 2009

+ + + + +

The Regular Public Meeting of the District of Columbia Zoning Commission convened in Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 6:30 p.m., Anthony J. Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD	Chairperson
PETER MAY	Commissioner (NPS)
WILLIAM W. KEATING, III	Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN	Secretary
DONNA HANOUSEK	Zoning Spec.

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESQ.
JACOB RITTING, ESQ.

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OFFICE OF PLANNING STAFF PRESENT:

JENNIFFER STEINGASSER
JOEL LAWSON
KAREN THOMAS
ARLOVA JACKSON
MAXINE BROWN-ROBERTS
MATT JESICK

The transcript constitutes the
minutes from the Regular Public Meeting held
on March 9, 2009

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AGENDA ITEM

CALL TO ORDER 5

CONSENT CALENDAR

Z.C. Case No. 06-34A 6
(LAT PYDI - Modification
to PUD at Square 1096)

Z.C. Case No. 06-04A 13
Florida & Q Street LLC
Two year time extension
for PUD at Square 3100, Lot 48

Z.C. Case No. 08-14 17
Kelsey Gardens Property
Co. LLC, Consolidated PUD
and related map amendment
at Square 421

Z.C. Case No. 08-19 22
HSC Foundation, map amendment
at Square 101, Lot 874

Z.C. Case No. 08-20 25
Office of Planning
Text Amendment re: Firearms

ZRR GUIDANCE none

CORRESPONDENCE

Z.C. Case No. 05-42 28
Letter requesting the ZC
to reexamine the application

Z.C. Case No. 09-01 30
Letter from Pillsbury Winthrop Shaw Pittman
requesting adoption of the rulemaking on an
emergency basis and adding additional
language to the text amendment

Office of Planning status report none

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P R O C E E D I N G S

[6:40 p.m.]

CHAIRMAN HOOD: This is our regular monthly meeting, Monday, March 9th, 6:30. I'm Anthony Hood.

Joining me are Commissioner Keating and Commissioner May. We're also joined by the Office of Zoning staff--Ms. Sharon Schellin, Ms. Donna Hanousek. Office of Attorney General, Mr. Bergstein and Mr. Ritting. And also the Office of Planning staff. Let me see if I can get this right. Ms. Steingasser, Mr. Lawson, Ms. Brown-Roberts, and Ms. Thomas, and Ms. Jackson. Okay. Who's that behind the pole?

MS. SCHELLIN: That's Jesick.

CHAIRMAN HOOD: Oh, Mr. Jesick. Okay. All right. Copies of today's agenda are located in the bin near the door. We do not take any testimony at our meetings unless we ask you to come forward. We're also being Webcast live, and we'd ask everyone to

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1 refrain from any disruptive noises. So at
2 this time, I would ask that you please turn
3 off your beepers and cell phones.

4 Does the staff have any
5 preliminary matters?

6 MS. SCHELLIN: No, sir.

7 CHAIRMAN HOOD: Okay. If not,
8 let's proceed with our agenda. Okay. We
9 have a Consent Calendar item, Zoning
10 Commission Case No. 06-34A. I don't know how
11 to pronounce that. LAT PYD1 - Modification
12 of PUD at Square 1096, and, actually, if we
13 can keep this, they're also asking, or
14 requesting a one-year time extension. And if
15 we're legally correct in procedure, I would
16 like to do both of those at the same time.

17 Okay. Ms. Schellin.

18 MS. SCHELLIN: Staff has nothing
19 further to add on this, other than if you
20 could take two separate votes, because I do
21 have an absentee ballot from Mr. Turnbull for
22 both actions, both the modification and the

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1 one-year time extension, but I only have an
2 absentee ballot for Mr. Jeffries on the one-
3 year time extension. He did not send one for
4 the consent calendar, so if you don't mind,
5 if we could have two different actions.

6 CHAIRMAN HOOD: Okay. And that's
7 the way we'll proceed. Let's take up the
8 minor modification action first, and what
9 we'll do is, while we're talking about this
10 particular case, we will deal with the one-
11 year-time extension second, and we will make
12 motions as Ms. Schellin has asked us to, so
13 we can record the votes correctly.

14 Okay. Let's open it up dealing
15 with the minor modifications, 06-34A. The
16 Applicant is requesting that we do seven
17 additional units, and there's been some
18 downsizing of units, and if you look at
19 Exhibit 1, which was in our submittals, you
20 will see what the Applicant is already
21 requesting. And they also have a worksheet
22 which has tonight been modified, and I assume

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1 that we're supposed to throw away the
2 worksheet that we looked at last night, and
3 look at the new one, which was presented to
4 us tonight.

5 We also have--okay. Well, let's
6 just deal with the modification first. And
7 that's Exhibit 13, and that was given to us
8 this evening.

9 MS. SCHELLIN: Just to clarify,
10 the only thing that changed on that was the
11 tabulation data, and they added a date, and
12 page numbers to the drawings. The tabulation
13 data matches the information that was
14 contained in the original order.

15 CHAIRMAN HOOD: Okay. Any
16 comments? I think, colleagues, this is a
17 relatively simple--if there's ever an
18 examination of a minor modification, I think
19 this is it. But I wanted to hear from my
20 colleagues. Nothing material basically has
21 changed other than the units, and I think the
22 net would be seven increased units.

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1 I hear no discussion. I guess--

2 COMMISSIONER MAY: I agree.

3 There's nothing really troubling about the
4 minor modification.

5 CHAIRMAN HOOD: Okay. So why
6 don't we--

7 COMMISSIONER KEATING: No
8 comments.

9 CHAIRMAN HOOD: Okay. So what
10 we'll do is we'll approve Zoning Commission
11 Case No. 06-34A for a minor modification, and
12 ask for a second.

13 COMMISSIONER MAY: Second.

14 CHAIRMAN HOOD: It's moved and
15 properly seconded.

16 Further discussion? And I think
17 in this case--let me just add, the record is
18 complete with the submissions of what is
19 being requested and asked for, and I think
20 they make a very valid case, so we'll
21 incorporate that into the motion, and it's
22 already in the record.

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1 Any further discussion?

2 [No response]

3 CHAIRMAN HOOD: All those in
4 favor?

5 [Chorus of ayes]

6 CHAIRMAN HOOD: Hearing no
7 opposition of those of us who are present,
8 Ms. Schellin, could you record the vote.

9 MS. SCHELLIN: Yes. Staff records
10 the vote four to zero to one to approve the
11 minor modification requested in Zoning
12 Commission Case No. 06-34A, Commissioner Hood
13 moving, Commissioner May seconding,
14 Commissioner Keating in support, Commissioner
15 Turnbull in support by absentee ballot,
16 Commissioner Jeffries not voting--not
17 present, not voting.

18 CHAIRMAN HOOD: Okay. Now with
19 the same case, anyway, Zoning Commission Case
20 No. 06-34A, I'm looking at Exhibit No. 10,
21 and it's asking for time extension, and it
22 covers the jurisdiction of the Commission,

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1 and if you look at the submittal, the letter
2 dated January 23rd, 2009, it gives us a walk-
3 through.

4 And I will tell you, this is very
5 similar to another case that we're going to
6 have, but it gives us a walk-through of what
7 the issues are. One of the things that I
8 underline is dramatic market forces.

9 However, as a result of dramatic market
10 forces, and out of an abundance of caution in
11 moving forward with such a sizeable project,
12 the Applicant has spent the past several
13 months reviewing the approved plans with the
14 goal of providing the highest quality product
15 at the most marketable and affordable level
16 for potential home buyers.

17 And it goes on as stated in the
18 January 23rd submission of the issues. An
19 extension for the time. It talks about an
20 extension request it served on all parties.
21 They've done that. And it just goes on to
22 talk about some of the financial hardships or

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1 issues that go to why they are asking for an
2 extension. It talks about construction
3 costs, preconstruction issues that have been
4 identified.

5 So that's all. I'm not going to
6 reread this. We've already read it.

7 Any other discussion?

8 [No response]

9 CHAIRMAN HOOD: With that, I would
10 move that we--I think a one-year time
11 extension for Zoning Commission Case No. 06-
12 34A, and ask for a second.

13 COMMISSIONER MAY: Second.

14 CHAIRMAN HOOD: It's moved and
15 properly seconded.

16 Any further discussion?

17 [No response]

18 CHAIRMAN HOOD: All those in
19 favor, aye.

20 [Chorus of ayes]

21 CHAIRMAN HOOD: Not hearing any
22 opposition, Ms. Schellin, would you record

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1 the vote.

2 MS. SCHELLIN: Staff records the
3 vote five to zero to zero to approve the one-
4 year time extension in Zoning Commission Case
5 No. 06-34A, Commissioner Hood moving,
6 Commissioner May seconding, Commissioner
7 Keating in support, Commissioner Jeffries and
8 Turnbull in support by absentee ballot.

9 CHAIRMAN HOOD: Okay. Moving
10 right again into final action, Zoning
11 Commission Case No. 06-04A, the Florida and Q
12 Street, LLC, a two year time extension for
13 PUD at Square 3100, Lot 48.

14 Ms. Schellin.

15 MS. SCHELLIN: This is a request
16 for a two year time extension, and staff has
17 nothing further to add on this one.

18 CHAIRMAN HOOD: Okay. Again,
19 colleagues, and I expect we may see a lot of
20 these extensions, especially with PUDs in the
21 pipeline, because of market conditions, and I
22 think all of us are feeling that pinch. So I

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1 think the submittal is straightforward. It's
2 dated February 5th. Let me open it for
3 discussion.

4 Any discussion?

5 COMMISSIONER MAY: I have just one
6 minor point to make, which is that in the
7 Applicant's explanation of the reasons for
8 the delay, and what's contributed to it, they
9 cite the fact that construction costs for the
10 project have increased exponentially since
11 the PUD was approved.

12 I am sure they have increased
13 dramatically, but increasing exponentially is
14 not something that construction costs have
15 done, at least in this country. I mean, it's
16 a subtle difference, but it's not a factor of
17 two or four or--you know--it's not that
18 number squared, which is what exponentially
19 means.

20 CHAIRMAN HOOD: Okay.

21 COMMISSIONER MAY: It's a minor
22 point.

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1 CHAIRMAN HOOD: So instead of a
2 100 squared, we will make sure that that
3 language is not in our final order.

4 COMMISSIONER MAY: It increased
5 significantly.

6 CHAIRMAN HOOD: Right.

7 COMMISSIONER MAY: Is fine.

8 CHAIRMAN HOOD: I guess maybe what
9 they were doing is putting a emphasis.

10 COMMISSIONER MAY: I understand
11 the dramatic effect of it, but--

12 CHAIRMAN HOOD: All right.

13 Any other discussion?

14 [Brief off-the-record discussion
15 between the Chair and Commissioner May]

16 CHAIRMAN HOOD: Okay. Anybody
17 like to make a motion?

18 COMMISSIONER MAY: I would move
19 approval for the request for extension of
20 time in Zoning Commission Order 06-04,
21 consolidated PUD and related zoning map
22 amendment for Florida and Q Street LLC. And

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1 ask for a second.

2 COMMISSIONER KEATING: Second.

3 CHAIRMAN HOOD: Okay. It's been
4 moved and properly seconded.

5 Any further discussion?

6 [No response]

7 CHAIRMAN HOOD: All those in
8 favor.

9 [Chorus of ayes]

10 CHAIRMAN HOOD: Ms. Schellin,
11 would you record the vote, please.

12 MS. SCHELLIN: Yes. Staff records
13 the vote five to zero to zero to approve the
14 two year time extension in Zoning Commission
15 Case No. 06-04A, Commissioner May moving,
16 Commissioner Keating seconding, Commissioner
17 Hood in support, Commissioners Jeffries and
18 Turnbull in support by absentee ballot.

19 CHAIRMAN HOOD: Thank you, Ms.
20 Schellin.

21 Let's move with Zoning Commission
22 Case No. 08-14. It's the Kelsey Gardens

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1 Property Company LLC, consolidated PUD and
2 related map amendment at Square 421.

3 Ms. Schellin.

4 MS. SCHELLIN: There's some
5 additional documents that have come in and
6 this case is before you for final action.

7 There is an NCPC report that has
8 come in also.

9 CHAIRMAN HOOD: Okay. And in the
10 NCPC report, it says that the proposed PUD
11 and related map amendment are not
12 inconsistent with the Comprehensive Plan for
13 the National Capitol, nor would they
14 adversely affect any other identified federal
15 interests. So NCPC has given their sign-off
16 on it, and colleagues, let's open it up for
17 discussion. We have some additional
18 submittals. I think they were asked for
19 before final, and let me just see if--rear
20 doors and retail bays. I'm sure I didn't ask
21 for that. Reticulation on the ground floor.

22 But let me go to Commissioner May.

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1 COMMISSIONER MAY: Yes. What
2 shows up in the plans is some further
3 attention to that residential corridor on the
4 first floor, and it's showing up as a more
5 residential-feeling corridor.

6 It's an improvement of the
7 circumstance for those four units that are
8 down there, and of course we're seeing the
9 plans of those units, to know that they work
10 very well, and that's appreciated.

11 We also see a change to the 11.5
12 foot wide townhouse that's now been combined
13 with the one next to it, and made, instead of
14 what were four units is now three units in
15 that combined building. I think that's a
16 good solution to deal with the extraordinary
17 narrowness of that unit.

18 There are other changes that I
19 would have liked to have seen in terms of
20 resolution of loading, the loading
21 circumstance. You know, I still think it's a
22 very awkward plan for the first floor of this

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1 building. It's an awkward building. You
2 know, I think I made my views pretty clear on
3 this. The long, long corridor.

4 I will note that we recently saw a
5 different case, that had a corridor that was
6 probably two-thirds the length of this, and
7 they actually had two elevator cores on it.

8 You know, it does add expense but
9 it's not unreasonable.

10 So anyway, I went on at some
11 length, last time around, about what I
12 thought about this project, but I'm still
13 prepared to move forward with final action
14 tonight, although I'm inclined not to vote in
15 favor.

16 CHAIRMAN HOOD: Okay. Considering
17 Mr. May, you and I are the only two who
18 participated on the Kelsey Gardens case, I
19 know we have two proxies. I think basically
20 the way we're going to move, this is a
21 procedural issue, and if at any time there's
22 an issue, then we can always relook at it.

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1 But I think for the sake of
2 procedurally trying to move forward, the
3 Commission, as you can see, there's only
4 three of us here tonight, I think that the
5 motion, the way we're going to handle this
6 case and the next one, are going to show the
7 way the Commission is trying to move to get
8 cases in, and do our due diligence as a
9 Commission and move things forward.

10 So I don't have anything. I'm
11 looking here, what was submitted, and I look
12 at these items on the submission dated
13 February 18th, and these are not issues that
14 I asked for, and I think we have proxies.

15 So I'm going to assume that
16 everyone else is pretty comfortable, and I
17 still understand your concerns, Commissioner
18 May.

19 Okay. So with that, I would
20 approve Zoning Commission Case No. 08-14, and
21 ask for a second.

22 COMMISSIONER MAY: I will second

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1 that motion for the sake of moving it forward
2 tonight, procedurally.

3 CHAIRMAN HOOD: Thank you. With
4 that, it's been moved and seconded.

5 Any further discussion? Any
6 further discussion?

7 [No response]

8 CHAIRMAN HOOD: All those in
9 favor.

10 [Chorus of ayes]

11 CHAIRMAN HOOD: Any opposition?

12 COMMISSIONER MAY: Opposed.

13 CHAIRMAN HOOD: Any abstentions?

14 Okay. Staff, would you record the
15 vote.

16 MS. SCHELLIN: Yes. Staff records
17 the vote three to one to one to approve final
18 action in Zoning Commission Case No. 08-14,
19 Commissioner Hood moved, Commissioner May
20 seconded that, but as far as the vote being
21 recorded, those in favor, Commissioner Hood,
22 Commissioner Jeffries and Turnbull by

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1 absentee ballot, Commissioner May opposed,
2 and the third mayoral appointee seat was
3 vacant at the time this case was heard.

4 CHAIRMAN HOOD: Okay. With that,
5 thank you. Thank you, Commissioner May for
6 procedurally moving that forward.

7 Let's move to Zoning Commission
8 Case No. 08-19, HSC Foundation, map amendment
9 at Square 101.

10 Ms. Schellin.

11 MS. SCHELLIN: Case No. 08-19 is
12 before you for final action. That there are
13 some additional documents that have come in,
14 and on that case we also have a report from
15 NCPC.

16 CHAIRMAN HOOD: Okay. Let me open
17 up for discussion

18 Commissioner May.

19 COMMISSIONER MAY: This is going
20 to be kind of a one-sided discussion, isn't
21 it?

22 CHAIRMAN HOOD: Very one-sided.

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1 COMMISSIONER MAY: Very one-sided.

2 When we took proposed action, I
3 think that the Commission understood the
4 concerns that were raised by the community,
5 didn't necessarily agree that we needed to be
6 concerned about this sort of opening the door
7 for wholesale rezoning of residential zones
8 to commercial zone, and I think that's still
9 the case.

10 I think that there is some
11 modification of the draft order that OIG has
12 suggested, which I would agree with, which
13 focuses on the order and the rezoning itself
14 as opposed to explicit reference to the
15 design of the proposed project, because it
16 was a straight map amendment.

17 And with that, I would move
18 approval of Zoning Case 08-19, HSC
19 Foundation, map amendment at Square 101, Lot
20 874, and ask for a second.

21 CHAIRMAN HOOD: Again, I will
22 second it, so we can get this moved

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1 procedurally, to not delay the action of the
2 Commission.

3 Ms. Schellin, it's been moved and
4 properly--well, it's been moved and seconded.

5 I would ask: Any further discussion?

6 [No response]

7 CHAIRMAN HOOD: Not hearing any,
8 all those in favor.

9 [Chorus of ayes]

10 CHAIRMAN HOOD: Opposed and not
11 participating.

12 Ms. Schellin, could you please
13 record the vote.

14 MS. SCHELLIN: Yes. Staff records
15 the vote three to zero to two, Commissioner
16 May moving, Commissioner Hood seconding, and
17 I'll record the vote. Those in favor,
18 Commissioner May, Commissioner Jeffries and
19 Turnbull by absentee ballot, Commissioner
20 Hood not voting, having not participated, and
21 the third mayor appointee seat was vacant at
22 the time of the hearing.

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1 CHAIRMAN HOOD: Again, I want to
2 thank Commissioner May, and also thank myself
3 for moving things procedurally. It gets hard
4 up here sometimes. Okay.

5 Let's move on with Zoning
6 Commission case No. 08-20. This is the
7 Office of Planning, Text Amendment re:
8 Firearms.

9 Ms. Schellin.

10 MS. SCHELLIN: Yes. This is a
11 case that we recently had a hearing on and we
12 do have an NCPC report that we received this
13 evening. They took this case up at their
14 meeting this past Thursday, and so we have it
15 before us for final action.

16 CHAIRMAN HOOD: Okay. As Ms.
17 Schellin stated, Exhibit 35 is the NCPC
18 report. No; you know what? I have the wrong
19 report in front of me.

20 MS. SCHELLIN: It should be in the
21 stack from this evening. So it's probably--

22 CHAIRMAN HOOD: Well, at this

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1 time, that is all lost. Oh. Here it is.
2 I'm sorry. I have it here. I have it.

3 Exhibit 26. Okay. Thank you,
4 Commissioner Keating. Exhibit 26.

5 They have advised that the
6 different firearm sales establishments, and
7 it has different districts in Washington,
8 D.C., would not be inconsistent with the
9 Comprehensive Plan for the National Capitol,
10 nor adversely affect any identified federal
11 interest. As Ms. Schellin has just stated,
12 we have dealt with this case, and I think it
13 was pretty exhaustive. The lieutenant came
14 down and asked a lot of questions, Office of
15 Planning had done a lot of thorough research,
16 and I think we had an exhaustive hearing,
17 even to the point where we did a bench
18 decision.

19 So with that, any further
20 discussion?

21 Let me do this. I would move
22 approval of Zoning Commission Order No. 08-20

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1 and ask for a second.

2 COMMISSIONER MAY: Second.

3 CHAIRMAN HOOD: It's moved and
4 properly seconded.

5 Any further discussion? Any
6 further discussion?

7 [No response]

8 CHAIRMAN HOOD: All those in
9 favor.

10 [Chorus of ayes]

11 CHAIRMAN HOOD: Not hearing any
12 opposition, Ms. Schellin, could you record
13 the vote.

14 MS. SCHELLIN: Yes. Staff records
15 the vote three to zero to two to approve
16 Zoning Commission Case No. 08-20,
17 Commissioner Hood moving, Commissioner May
18 seconding, Commissioner Turnbull in support
19 by absentee ballot, Commissioners Jeffries
20 and Keating not voting, having not
21 participated.

22 CHAIRMAN HOOD: Okay. Next. We

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1 don't have any ZRR guidance to give out
2 tonight. That's good news for tonight.

3 Correspondence. Let's go to Ms.
4 Schellin. Let's do A, Zoning Commission Case
5 No. 05-24, letter requesting the Zoning
6 Commission to reexamine the application.

7 Ms. Schellin.

8 MS. SCHELLIN: Yes. This is a
9 letter that we received, requesting
10 reconsideration of Zoning Commission Case No.
11 05-42.

12 CHAIRMAN HOOD: The only issue I
13 see with this letter tonight--well, a number
14 of issues. I, first of all, am not moved to
15 move forward. I think this case was fully
16 vetted in an open hearing process. Also the
17 case is over and has been over for some time.

18 And even more than that, as I look on the
19 dias, two colleagues that participated are
20 not here tonight, so I can't ask them if they
21 want to move forward or not.

22 I would just ask that this not

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1 become a part of the record, because we can't
2 open, the records have been closed, and maybe
3 that we can let the author of this letter
4 know that we can send it back to him. We
5 will not be accepting it.

6 Okay. I don't think--well, I
7 can't do a motion, so that's--I will do that.

8 Okay. The next. We have Zoning
9 Commission Case No.--and actually, Mr.
10 Bergstein, do I need to get into what case
11 this was? I think I called 05-42, was the
12 case that we're directing that the letter
13 goes back to the author of the letter, and
14 that was the case number.

15 MR. BERGSTEIN: Yes. Yes.

16 CHAIRMAN HOOD: Okay. Okay.

17 Next we have Zoning Commission
18 Case 09-01. This is a letter from Pillsbury
19 Winthrop Shaw Pittman requesting adoption of
20 the rulemaking on an emergency basis and
21 adding additional language to the text
22 amendment, which is in our case, Zoning

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1 Commission Case No. 09-01.

2 Ms. Schellin.

3 MS. SCHELLIN: Yes. This is
4 actually a request from Pillsbury Winthrop
5 Shaw Pittman asking for the adoption of this
6 case, the language on an emergency basis, and
7 also adding some additional language to the
8 text amendment, along with also a letter from
9 Holland & Knight, requesting emergency action
10 for your consideration.

11 CHAIRMAN HOOD: Ms. Schellin, we
12 have a hearing coming up on this issue soon.
13 Can you give me the date on that.

14 MS. SCHELLIN: Yes, sir. It is
15 March 30th.

16 CHAIRMAN HOOD: March 30th. Okay.

17 MS. SCHELLIN: Yes.

18 CHAIRMAN HOOD: Colleagues, we
19 have two issues here in front of us. We have
20 some additional texts and also we're being
21 requested to do an emergency action.

22 I believe upon consulting with

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1 counsel, I believe that the BZA, it's within
2 the BZA's jurisdiction to do time extensions.

3 I know we have a fully vetted hearing.

4 I don't know if, because I believe
5 that the two that I know of, that we know of,
6 that are getting ready to expire, they've
7 already filed time extensions with the BZA, I
8 think that's proper, I think moving in that
9 direction is the right thing to do, and I
10 really don't see us needing, necessarily, to
11 do any emergency, especially as long as those
12 applications that are getting ready to expire
13 have filed in front of the BZA, which once we
14 have the hearing, that process will be
15 vacated because the BZA will have clear
16 direction on how to deal with those time
17 extensions.

18 And I will open it up to my
19 colleagues, and I'll go with Mr. Bergstein to
20 make sure we're legally sufficient in how we
21 move.

22 COMMISSIONER MAY: Yes. I was just

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1 going to suggest that we ask Mr. Bergstein to
2 address the question of what happens when one
3 does file for an extension in front of the
4 BZA, before we've taken action on this case.

5 MR. BERGSTEIN: Well, I've always
6 viewed the proposed amendment as stating
7 expressly what's always been implicitly
8 understood, that the BZA has the inherent
9 authority to consider requests to extend the
10 validity of their orders, and in fact they
11 have taken up such requests in the past, and
12 I believe they've also considered the filing
13 of those requests, if they're filed before
14 the expiration of the order, to toll the
15 expiration date while they're considering the
16 request, just as the Commission has always
17 considered the same effect to happen when
18 people file requests for PUD time extensions.

19 The main thing this amendment will
20 do is to provide guidance and the standard
21 for the BZA to follow.

22 So I think that the filing of the

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1 time extension requests that have been made
2 so far will have the effect of tolling the
3 expiration of those order, so the BZA can
4 consider the applications, the requests, and
5 if by chance--if the Commission were later to
6 decide, no, the BZA shouldn't have that
7 authority, then you can actually change the
8 proposed text around to say no, they can't do
9 it, or if the Commission says yes, they do
10 have the authority and here's the guidelines
11 to follow, then once that becomes effective,
12 those guidelines would become effective if
13 the requests are still before the BZA, if
14 they haven't ruled on them yet.

15 So what I'm trying to suggest is
16 that the status quo really hasn't changed by
17 virtue of setting down this rule, that filing
18 of the time requests can be heard by the BZA,
19 that the orders that relate to those
20 extensions won't expire until the BZA
21 considers them, and anything that you do at
22 the hearing, or at final action, will just

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1 add to the BZA's analysis was to what it
2 should do when it has requests of that
3 nature.

4 CHAIRMAN HOOD: Any other
5 questions? Comments?

6 Let me ask this, Mr. Bergstein. Do
7 we need a motion to deny--or what do we need
8 to do?

9 MR. BERGSTEIN: If this is just on
10 correspondence, which is where it is, I think
11 you can simply--you can express concurrence
12 with my view and then just note the
13 correspondence.

14 CHAIRMAN HOOD: Okay. We express--
15 -can I speak for all of us?

16 MR. BERGSTEIN: Yes. I think so.

17 CHAIRMAN HOOD: We express
18 concurrence with your view and we note it.
19 It's in correspondence.

20 MR. BERGSTEIN: I think these--

21 CHAIRMAN HOOD: I didn't think it
22 was going to be that easy, Mr. Bergstein; but

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1 that time it was real easy. Thank you. I
2 didn't think it was going to be that easy.

3 MR. BERGSTEIN: I understand this
4 correspondence will also become a part of the
5 record for the case that will be heard, so--

6 CHAIRMAN HOOD: For our case?

7 MR. BERGSTEIN: Yes. Yes, it
8 would. It would be considered a comment on
9 the text.

10 CHAIRMAN HOOD: Thank you very
11 much, Mr. Bergstein.

12 Next. Do we have anything else?
13 Next, we have the Office of Planning's status
14 report.

15 Ms. Steingasser or Mr. Lawson.

16 MS. STEINGASSER: We have no
17 updates this month.

18 CHAIRMAN HOOD: Okay. All right.
19 Well, anything else, Ms. Schellin?

20 MS. SCHELLIN: No, sir.

21 CHAIRMAN HOOD: I would just
22 announce that the office director, Office of

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1 Zoning's job has been announced, and it's on
2 the D.C. Office of Personnel's Web site.

3 Okay. Anything else?

4 [No response]

5 CHAIRMAN HOOD: All right. With
6 that, I want to thank everyone for their
7 attention for this meeting tonight and this
8 meeting is adjourned.

9 [Whereupon, at 7:11 p.m., the
10 meeting was adjourned.]

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