

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF: :
   
:
   
Proposed Text Amendment to : Case No.
   
General Waterfront : 20-01
   
Regulations :
   
-----:

Thursday,
   
May 7, 2020

Video Teleconference

The Public Hearing of Case No. 20-01 by the District of Columbia Zoning Commission convened at 4:00 p.m. EDT, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:
   
ANTHONY J. HOOD, Chairperson
   
ROBERT MILLER, Vice Chairperson
   
MICHAEL G. TURNBULL, FAIA, Commissioner
   
(AOC)
   
PETER SHAPIRO, Commissioner

OFFICE OF ZONING STAFF PRESENT:
   
SHARON S. SCHELLIN, Secretary
   
PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:
   
JOEL LAWSON
   
ELISA VITALE

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALEXANDRA CAIN, ESQ.

The transcript constitutes the minutes from the  
Public Hearing held on May 7, 2020.

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

4:00 p.m.

1  
2  
3 CHAIRMAN HOOD: Okay. It's four o'clock. Ready  
4 to get started. Good afternoon, ladies and gentlemen. This  
5 is a public hearing of the Zoning Commission for the District  
6 of Columbia.

7 My name is Anthony Hood. I'm joined this  
8 afternoon by Vice Chair Miller, Commissioner Shapiro,  
9 Commissioner Turnbull, soon to be joined hopefully by  
10 Commissioner May, but he will, either way, be participating.

11 We're also joined by the Office of Zoning staff,  
12 Ms. Sharon Schellin, as well as the Office of Zoning Staff,  
13 Mr. Paul Young, who's handling all our virtual activities.

14 Notice of this hearing was published in the DC  
15 Register and copies of that announcement are available in  
16 electronic form.

17 The hearing will be conducted in accordance with  
18 the provisions of 11 Z DCMR Chapter 5 as follows: Preliminary  
19 matters, presentation -- in this case, it will be from the  
20 Office of Planning -- report of other government agencies,  
21 report of the ANC, and we'll have testimony from the public.  
22 Organizations, five minutes. Individuals, three minutes.

23 Then we also welcome those who are from the public  
24 who are participating in this virtual hearing. So, the  
25 subject of tonight's case is 20-01. These are waterfront

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1 proposed regulations.

2 I don't believe I need to read too much. Most of  
3 this we'll be reading in person. And if we have any changes,  
4 we will build them accordingly.

5 Also, I would ask that other members, before we  
6 speak, including those of the public, could you identify  
7 yourself and which organization you're with and we will  
8 proceed in that order.

9 So, with that, Ms. Schellin, do we have any  
10 preliminary matters?

11 MS. SCHELLIN: Just to state that this case, if the  
12 Commission will recall, at the time of setdown, did authorize  
13 the immediate publication of proposed rulemaking, which was  
14 published in the DC Register on February 24th.

15 We have an OP hearing report at Exhibit 9. NCP  
16 provided a delegated action at Exhibit 15. And so, this case  
17 could, if the Commission chooses to do so, proceed with final  
18 action.

19 I think even with the ANC -- or the Council's new  
20 rule with the ANCs having 51 days' notice, that time period  
21 has -- they've had more than 51 days at this point because  
22 the hearing notice went out -- the first hearing notice went  
23 out and this case was originally scheduled to be heard on  
24 March 16th.

25 And, like I said, the proposed rulemaking was

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1 published February 24th. And so, the time period, I think,  
2 has passed, but I will leave that for OAG to confirm, and  
3 would just ask the Commission to move forward with the  
4 hearing this evening and proceed, if they choose to do so.

5 CHAIRMAN HOOD: Okay. Thank you, Ms. Schellin for  
6 that update. Commissioners, anything before I go to Office  
7 of Planning? Okay. Let's go to the Office of Planning. Mr.  
8 Lawson -- oh, and Ms. Vitale.

9 MS. VITALE: Good afternoon, Mr. Chair and Members  
10 of the Commission. Can you hear me?

11 CHAIRMAN HOOD: Yes.

12 MS. VITALE: Great. This is Elisa Vitale with the  
13 Office of Planning and this is case 20-01, a proposed text  
14 amendment to the Waterfront Regulations in Subtitle C that  
15 was set down in January of this year.

16 The Waterfront Regulations prohibit certain uses  
17 in the 100-year floodplain. And with this text amendment,  
18 OP is proposing to permit those uses by special exception  
19 rather than by variance.

20 OP worked closely with DOEE and OAG on the text  
21 amendment and the proposed special exception criteria provide  
22 for a referral and review by DOEE, Fire and EMS, MPD and  
23 HSEMA.

24 There were minor changes to the text after  
25 setdown. This was to refine the referral language to ensure

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1 consistency with the regulations in Subtitle A.

2           We are pleased to have DOEE -- we have Nick Bonard  
3 from DOEE on the virtual public hearing with us today should  
4 there be any questions.

5           However, this concludes my report and I'm happy  
6 to answer any questions. Thank you.

7           CHAIRMAN HOOD: Okay. Thank you, Ms. Vitale.  
8 Commissioners, let's see if we have any questions. Let me  
9 start today with Commissioner Shapiro.

10           COMMISSIONER SHAPIRO: I have no questions, Mr.  
11 Chair.

12           CHAIRMAN HOOD: No questions.

13           Commissioner Turnbull?

14           COMMISSIONER TURNBULL: Mr. Chair, I really have  
15 no questions right now.

16           CHAIRMAN HOOD: Okay. And Vice Chair Miller?

17           VICE CHAIR MILLER: No questions. Thank you, Ms.  
18 Vitale, for our report.

19           CHAIRMAN HOOD: Alright. I will just say that I  
20 think it was very well done. I think that there are a lot  
21 of what-ifs and a lot of precautionary measures.

22           I do like what I see. I know that the experts --  
23 and I see this had some more serious collaboration going on  
24 between NCPC and others.

25           So, as far as that goes, that gives me a confident

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1 level of different uses and allowing restrictions and  
2 everything.

3 So, I have a confident level with that. I Just  
4 wanted to put that on the record. I thought this was very  
5 well written for us to continue with our decision.

6 So, with that, let me go to -- do we have -- I  
7 didn't see anything from any ANCs. Did the Department of  
8 Energy and Environment want to say anything?

9 Okay. I'll leave it -- I'll take that as a no.  
10 Okay. I didn't see anything from the other ANCs, unless I  
11 missed the call-ins. Any other government agencies -- we do  
12 have a response from DOEE, as was mentioned by Ms. Vitale  
13 earlier.

14 So, we have been working in collaboration -- it  
15 looks like there's a lot of collaboration work going on,  
16 which I think is very germane to this whole piece of  
17 legislation dealing with the waterfront and floodplain. So,  
18 do we have any individuals, Ms. Schellin, on the phone?

19 (Pause.)

20 CHAIRMAN HOOD: You're on mute.

21 Ms. Schellin.

22 MS. SCHELLIN: Yes. Paul turned -- He turned it --  
23 I turn it on, he turns me off. So, we did not have anybody  
24 preregister. Let me see if anybody has raised their hand.  
25 And I am not showing anybody out there that is choosing --

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1 or indicating that they want to testify. So, the answer  
2 would be no one to testify.

3 CHAIRMAN HOOD: Okay. And I appreciate all the due  
4 diligence that everybody did to make sure that the public  
5 knew about this. I thought it was pretty straightforward.  
6 Might have had a few questions, but we didn't. So, very well  
7 done.

8 So, with that, I will -- since we had notified the  
9 public and we don't have anyone from the public to testify  
10 this evening, I will close the hearing and ask -- see if we  
11 want to move forward.

12 We've heard the allegations from Ms. Schellin  
13 earlier about the authority that we have to move forward, if  
14 possible, because I think we meet the date requirement. I  
15 think that's a moot point at this point. So, let me hear  
16 from my other colleagues if we're ready to move or do we want  
17 to wait for our Commissioner May. Let me just ask.

18 COMMISSIONER SHAPIRO: I feel ready to proceed, Mr.  
19 Chair.

20 CHAIRMAN HOOD: Okay.

21 COMMISSIONER TURNBULL: Yes, Mr. Chair. I'm ready  
22 to move ahead with this.

23 CHAIRMAN HOOD: Okay. I think it's pretty  
24 straightforward.

25 SO, would somebody like to make a motion?

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1 COMMISSIONER TURNBULL: Mr. Chair, I would move  
2 that we approve Zoning Case 20-01, the proposed text  
3 amendment to Subtitle C, Chapter 11, Waterfront Regulations.  
4 Ask for a second.

5 VICE CHAIR MILLER: Second.

6 CHAIRMAN HOOD: Okay. It has been moved and  
7 seconded. Any further discussion?

8 (Pause.)

9 CHAIRMAN HOOD: Ms. Schellin, can we do a roll call  
10 vote?

11 MS. SCHELLIN: Yes, sir.

12 Commissioner Turnbull?

13 COMMISSIONER TURNBULL: Yes.

14 MS. SCHELLIN: Commissioner Miller?

15 VICE CHAIR MILLER: Yes.

16 MS. SCHELLIN: Commissioner Hood?

17 CHAIRMAN HOOD: Yes.

18 MS. SCHELLIN: Commissioner Shapiro?

19 COMMISSIONER SHAPIRO: Yes.

20 MS. SCHELLIN: Commissioner May? Commissioner May  
21 not able to participate. So, the vote would be 4 to 0 to 1  
22 to approve final action in Zoning Commission Case No. 20-01.

23 CHAIRMAN HOOD: Okay. Thank you, Ms. Schellin.  
24 Do we have anything else?

25 VICE CHAIR MILLER: I would say --

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1 MS. SCHELLIN: Nothing else with --

2 CHAIRMAN HOOD: Yes, Vice Chair?

3 VICE CHAIR MILLER: I would say that if we hear  
4 from Commissioner May, who the Park Service has special  
5 interest in waterfront issues, if we hear that he has a  
6 concern, that we maybe be open to reconsidering it if there  
7 is some serious concern.

8 So, just make that comment that we have an  
9 opportunity for him to communicate with Sharon or the  
10 Chairman.

11 CHAIRMAN HOOD: Okay.

12 COMMISSIONER TURNBULL: So, we can leave the record  
13 open then for Commissioner May.

14 CHAIRMAN HOOD: So, that's kind of --

15 MS. SCHELLIN: No.

16 CHAIRMAN HOOD: No, because we vote -- here's what  
17 I would say. Having worked with Commissioner May for a  
18 while, I think if there was a serious concern, he probably  
19 would have said something before; but if not, we can always  
20 do as the Vice Chair just mentioned.

21 So, I feel a confident level of -- because he came  
22 on earlier. He is also in another meeting now. So, if he  
23 had had a concern, it would have been -- we would know, I  
24 believe, before this.

25 But, like the Vice Chair said, if he does, then

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1 we will deal with it at that time. I certainly am open to  
2 that. I think we all should be because the Park Service and  
3 flood plain are important.

4           Alright. Anything else?

5           MS. SCHELLIN: No, sir.

6           CHAIRMAN HOOD: Alright. So, with that, I  
7 appreciate everyone's participation tonight and especially  
8 the public, if they are listening, and all the work that  
9 staff has put in again for our virtual hearing.

10           And with that, this hearing -- this virtual  
11 hearing is adjourned.

12           (Whereupon, at 4:11 p.m. the hearing was  
13 adjourned.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCZC

Date: 05-07-20

Place: teleconference

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