

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ZONING COMMISSION

VIRTUAL PUBLIC MEETING

VIA WEBEX

MEETING SESSION

MONDAY, NOVEMBER 20, 2023

The Public Meeting of the District of Columbia Zoning Commission convened via videoconference pursuant to notice at 4:00 p.m. EDT, Anthony Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson
ROBERT MILLER, Vice Chairperson
STIDHAM, Commissioner
JOSEPH S. IMAMURA, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON SCHELLIN, Secretary
PAUL YOUNG, Data Specialist

OFFICE OF ZONING LEGAL DIVISION STAFF PRESENT:

JACOB RITTING, Esquire

This transcript serves as the minutes from the Public Meeting held on November 20, 2023.

Diversified Reporting Services, Inc.

1426 Duke Street
Alexandria, Virginia 22314
(202) 467-9200

C O N T E N T S

Case No. 23-02

4

P R O C E E D I N G S

(4:00 p.m.)

CHAIRPERSON HOOD: Good afternoon, ladies and gentlemen. Today's date is November the 20th, 2023. Let me first -- so I don't forget -- right now is wish everyone a happy Thanksgiving. Be safe and enjoy with your family. We're convening broadcasting this public hearing by video conferencing. My name is Anthony Hood.

I'm joined by Vice Chair Miller -- soon to be Commissioner Stidham, and Commissioner Imamaru. Also by the Office of Zoning's staff, Ms. Sharon Schelling and Mr. Paul Young who will be handling all of our virtual operations. And our Office of Zoning legal division, Mr. Jacob Ritting. I would ask all others to introduce themselves at the appropriate time.

The virtual public hearing notice is available in Office of Zoning's website. This proceeding is being recorded by a court reporter. The platforms used are WebEx and YouTube Live. The video will be available in Office of Zoning's website after the hearing. All persons planning to testify should have signed up in advance and will be called by name at the appropriate time.

At the time of sign-up all participants will complete the oath or affirmation required by subtitle Z48.7. Accordingly all those listening on WebEx or by phone will be

1 muted. During the hearing and only those who have signed up
2 to participate or testify will be unmuted at the appropriate
3 time.

4 When called, please state your name before
5 providing your testimony. When you have finished speaking,
6 please mute your audio. If you have experienced difficulty
7 accessing WebEx or with your telephone call-in, or have not
8 signed up, then please call our OZ hotline number, 202-727-
9 0789.

10 If you wish to file written testimony or
11 additional supporting documents during the hearing, then
12 please be prepared to describe and discuss it at the time of
13 your testimony. The subject of this evening's case is
14 Zoning Commission -- second -- these files -- okay, Zoning
15 Commission case -- hold on one second. Let me get my file
16 to open back up. Bear with me.

17 Case No. 23-02

18 Zoning Commission case number 23-02 and that topic
19 is -- this is a request on behalf of the Deputy Mayor for
20 economic development and planning to rezone squares 0175
21 Lots 826 and 827 from MU-4 zone to MU-10 zone and that IZ
22 Plus apply. That was their recommendation. The hearing
23 will be conducted in course of provisions of 11Z DCMR
24 Chapter Four as follows, preliminary matters, applicants
25 case.

1 The applicant has up to 60 minutes. The report of
2 the office -- report of other government agencies, report of
3 the Department of Transportation, and the Office of
4 Planning, report of the ANC, testimony of organizations and
5 individuals, organizations five minutes, individuals three
6 minutes.

7 And we will hear in the following order for those
8 who in support opposition are undeclared. Then we'll have
9 rebuttal and closing by the (inaudible). Again, the OZ
10 hotline number is 202-727-0789 for any concerns during these
11 -- this proceeding. At this time the Commissioner will
12 settle any preliminary matters.

13 I know we have some preliminary matters we need to
14 discuss this evening. Ms. Schellin, do you have any -- do
15 we have any preliminary matters?

16 MS. SCHELLIN: Yes, sir. As you stated there are
17 some preliminary matters that the Commission needs to state.
18 The ones that I think you're referring to that I have are
19 the motions that have been filed. The first one being from
20 the Dupont Circle Citizen's Association. They filed an
21 Exhibit 459 a Motion to Dismiss the case or in the
22 alternative indefinitely postpone the case because the 2021
23 Comp Plan Amendments were not published in the D.C.
24 Municipal Regulations. If the Commission wants to take that
25 motion up first, maybe?

1 CHAIRPERSON HOOD: Yes, I'll move in that
2 direction. I'll deal with this. The department -- I mean,
3 I'm sorry. I'm thinking about work. Dupont Circle
4 Citizen's Association, as Ms. Schellin has already stated,
5 filed a motion to dismiss the case or in the alternative,
6 indefinitely postpone the case because the 2021
7 Comprehensive Plan Amendments were not published in the D.C.
8 Municipal Regulations which is our Exhibit 459.

9 Yes, it is true that the 2021 Comp Plan Amendments
10 were not published in the D.C. MR. And let me explain to
11 the public why. This is because the council -- the city
12 council explicitly exempted them from the publication
13 requirement. See section 5 of the Comprehensive Plan
14 Amendment Act of 2021.

15 The 2021 amendments can be found on the Office of
16 Planning's website. So accordingly, I am going to deny that
17 motion and if my colleagues disagree with me at this time
18 they can let me know. But I'm making the decision as the
19 Chairman to deny that motion. Any objections? Okay.

20 VICE CHAIR MILLER: No objection Mr. Chairman.
21 And I would just add that it was specifically exempted by
22 the council in the Act that enacted the Comprehensive Plan
23 two years ago. And it has been -- there's a reason why it's
24 exempt. It's because it's a very -- it's a more readable
25 document than the typical regulations.

1 This is one reason. It's -- and has photo -- it
2 has photos in it. It has maps. It has graphics. That's
3 not typically in DCA municipal regulations. It was
4 published on the Office of Planning's website. It's on the
5 Office of Zoning's website or at least with a link. It's
6 fully available and has been throughout the entire enactment
7 process and ever since. I agree with you that the motion
8 can be dismissed. It -- the -- those amendments are in
9 effect.

10 CHAIRPERSON HOOD: Okay. Thank you, Vice Chair.
11 And I appreciate you adding that as someone who has worked
12 on that for many years in this city. I can see you're one
13 of the Comp Plan experts. In your other position you worked
14 on that for many years. Okay. Ms. Schellin, anything else?

15 MS. SCHELLIN: Yes, sir. Moving on, the next
16 motion is there was a letter from DCCA at Exhibit 382, and a
17 motion on behalf of -- I believe it was four of the five
18 party status request applicants requesting a continuance
19 because of defects in the notice. Staff is aware that the
20 notice was defective.

21 It did not list information -- how a -- an
22 individual or a group could apply for party status. And so
23 that motion is -- or letter in motion on behalf of the four
24 or five party status applicants is at Exhibit 382.

25 CHAIRPERSON HOOD: Thank you, Ms. Schellin. And

1 now, let me deal with it like this. And I'm going to re-
2 cap. Again, Ms. Schelling has mentioned there's a letter
3 from the Dupont -- hold on one second -- Dupont Circle
4 Citizen's Association which -- Exhibit 382 and the motion on
5 behalf of four out of the five were stated party status
6 applicant's request a continuance because of defects in the
7 public hearing notice, Exhibit 389A.

8 I want to thank the public. That's what it's all
9 about. It's a public process and they were exactly correct.
10 The public hearing notice was defective. It lists the
11 information for becoming a witness in a rulemaking case and
12 this is not -- and it can be very -- this stuff can be very
13 confusing of the process.

14 So we want to eliminate as much confusion as
15 possible. I'll miss the information from becoming a party
16 in a contested case which is what this is. And in Exhibit
17 316, it states that. What I would want to direct and ask
18 that we can re-advertise this now, properly and fix the
19 issues.

20 Accordingly, we're going to grant this motion
21 unless I hear any objections. And I know the Chair can
22 basically do it on his own, but I'd like my colleagues to
23 chime in if they'd like and direct staff to issue new
24 hearing notice for contested cases. And the date that I've
25 already been given and talked -- spoke to staff about -- is

1 going to be January the 8th.

2 And what I'm also going to ask staff, they don't
3 know about this, I'm going to ask staff to pick a second
4 date so we can announce that as well. Any objections?

5 Okay. So I know I sprung that as I continue to read through
6 what I needed to do to see. Michelle and I thought about
7 that and I probably should've mentioned it to staff earlier
8 but I didn't. So forgive me. So (crosstalk) --

9 MS. SCHELLIN: Sure. So --

10 CHAIRPERSON HOOD: We don't have to do it now but
11 a second date -- but I'd like to have it so I can announce
12 it just in case.

13 MS. SCHELLIN: Sure. So we can either do the 4th
14 and the 8th or the 8th and the 18th.

15 CHAIRPERSON HOOD: I'd rather do the 8th and the
16 18th.

17 MS. SCHELLIN: 8th and 18th. Okay. Staff will
18 mark that off --

19 CHAIRPERSON HOOD: (Crosstalk) --

20 MS. SCHELLIN: -- and we'll also put that in the
21 notice if needed the second night. Okay?

22 CHAIRPERSON HOOD: Okay. IF needed. Okay. All
23 right. Ms. Schellin, anything else?

24 MS. SCHELLIN: Let me check my notes going back.
25 So as stated we -- there are already five party status

1 requests. I don't know if the Commission wants to rule on
2 them now or maybe encourage them to work together and maybe
3 combine. I'm going to leave that up to the Commission just
4 to decide because I know that Mr. Hanlon who is an attorney
5 in Maryland -- I'm assuming he's also passed the bar or, or
6 has his license in D.C. too since he is representing -- or
7 representing groups in D.C. that -- and he filed a motion on
8 behalf of four of the five -- if maybe they might consider
9 combining their requests.

10 But I'm going to leave it up to the Commission if
11 they want to just make that announcement and then decide all
12 party status requests on the new date which I guess is
13 probably the right thing to do.

14 CHAIRPERSON HOOD: I think what we're going to do
15 -- colleagues -- and my colleagues object -- I'd like to
16 deal with party status now and I do want to eventually bring
17 Mr. Hanlon, give him a notice -- a warning that I want to
18 bring him up because I do want some clarification when we
19 look in the record I was not clear on whether or not he was
20 going to be -- whether we were going to combine those four
21 which we -- which is what we would like.

22 And there are issues to come out that way and we
23 would accommodate that. We'll accommodate either way but I
24 think it's cleaner if we put those four together. It's not
25 mandated you have to do it. We'll go through the process --

1 voir dire -- whatever they call that process, Vice Chair.

2 I'm not a judge.

3 But we'll go through that process of deciding
4 party status. Then we will look at the other parties
5 outside of it. I don't know if they want to combine or not.
6 There's not a requirement but I looked at some of the party
7 status. I'm sure my colleagues have. Well I -- I would
8 like to deal with the party status issue that we have in
9 front of us today and not wait until January the 8th.

10 So that way parties will know their position. Any
11 objections to moving in that format? Okay. All right. I'm
12 going to call them one by one and -- well, let's do this.
13 Let me -- for the sake of time let me bring -- can we bring
14 Mr. Hanlon up?

15 MS. SCHELLIN: Paul, that's Edward Hanlon. He may
16 need to turn his camera and unmute --

17 MR. HANLON: (Inaudible) can you hear me?
18 Commissioners, can you hear me okay?

19 CHAIRPERSON HOOD: Yes, we can hear you. Are you
20 -- do you choose not to turn your camera on?

21 MR. HANLON: I notified the -- Ella Ackleman
22 (phonetic) this afternoon that I was having a problem with
23 my camera. And so I was going to try to do it from my
24 phone. The audio -- and so I can see you but I cannot get
25 the camera to work on my phone or my new computer screen.

1 CHAIRPERSON HOOD: Okay. Okay.

2 MR. HANLON: So I can see you and I can hear you.
3 And -- but unfortunately you cannot see me right now
4 apparently.

5 CHAIRPERSON HOOD: Okay.

6 MR. HANLON: But may I speak?

7 CHAIRPERSON HOOD: Mr. -- hold tight. We're going
8 to go through the process.

9 MR. HANLON: Okay.

10 CHAIRPERSON HOOD: First of all, can you identify
11 yourself?

12 MR. HANLON: I am Edward Hanlon. I am the
13 attorney for the Dupont Circle Citizens Association. And
14 yes, I am admitted to practice in D.C. by number 421789.
15 Been admitted to practice in D.C. for more than 30 years.

16 CHAIRPERSON HOOD: Okay. Thank you, Mr. Hanlon.
17 Now, I know you are representing -- you've already stated
18 you're representing Dupont Circle Citizens Association.
19 Now, we have five party status requests and when you, when
20 you filed the -- to get the postponement and the other
21 additional information that you filed, you represented four
22 out of the five party status requests. So I'm asking are
23 you representing all of those, those four parties?

24 MR. HANLON: Thank you, MR. Chairman. No. Let me
25 make clear, I only represent the Dupont Circle Citizens

1 Association. I do not represent any of the other parties.
2 The motion was styled as a joint motion of all of the
3 parties and each representative of each individual party
4 signed the bottom of the motion in their capacity as
5 representative.

6 I signed that joint motion in my capacity as
7 attorney for the Dupont Circle Citizens Association. So I'm
8 not in a position to bind any other party to the case and I
9 cannot represent that any of the other parties want
10 consolidation at this time. I would suggest -- but it's up
11 to the chair -- to either grant all the parties party status
12 based on their filings or take it up on January 8th after
13 the parties have discussed the matter again.

14 CHAIRPERSON HOOD: Okay. Thank you, Mr. Hanlon.
15 We can take Mr. Hanlon down. So what I think I'm going to
16 do after what I heard Mr. Hanlon say is I'm going to ask all
17 the parties to discuss -- I was going to take it up tonight
18 but he brings up a good point. I would like for them all to
19 discuss this to see whether or not -- give them opportune
20 time to discuss and then we'll have to just deal with it
21 January the 8th. Let me hear what others have to say. Mr.
22 Imamaru?

23 MR. IMAMARU: Thank you, Mr. Chairman. I'm in
24 agreement. I think it makes more sense for all the parties
25 to discuss this collectively and then take this up at the

1 new hearing date based on their decision at that time.

2 CHAIRPERSON HOOD: Okay. Thank you. And Vice
3 Chair Miller?

4 VICE CHAIR MILLER: Thank you, Mr. Chairman. Yes,
5 I would agree with you on all of your comments including
6 appreciating that the -- that Mr. Hanlon, as a
7 representative of one of the parties and the drafter of the
8 motion for continuance because of defective notice did bring
9 that to our attention, I appreciate that he has -- bring
10 that and we're going to correct that notice.

11 Yeah, and I would also encourage as you both have
12 as the parties -- just if we grant -- whoever we grant
13 parties to now and whoever might be asking for party status
14 later because now we have a later hearing date, and they can
15 request per the notice that will correctly state that they
16 can request party status up to 14 days in advance, is that
17 correct, Ms. Schellin? I see you nodding your head.

18 So we may get additional requests and for -- so
19 amongst those who have already requested and amongst those
20 who may additionally request I -- I too would encourage all
21 of them to collectively discuss the issues and -- the
22 procedural issues that we're asking for which is to try to
23 -- if possible consolidate into one -- into as few parties
24 as possible just to make it a more efficient hearing for
25 both the public and for us. So thank you.

1 CHAIRPERSON HOOD: Okay. Thank you. Let me, let
2 me just go through who the parties are right now who I would
3 like for them to initiate on their own to see which ones can
4 join and which ones cannot -- do not want to join. It's not
5 a requirement. I don't want anybody to take away and say --
6 I know how things get misconstrued around here.

7 I've been doing this for a long time. I'm not
8 saying this is required. This is an ask if possible and you
9 will be heard either way. One of the parties -- let me go
10 through the parties. Give me one moment. And forgive me if
11 I mispronounce your name. Deborah Ackle, on behalf of the
12 Tenants of Rochelle Apartments, the other party is -- I
13 believe I have the Homeowner's within 200 feet.

14 I think that's the party. Randle Jones is a
15 party. And we already know about the Dupont Circle Citizens
16 Association and the Black Neighbors of 1617 U Street,
17 Northwest. Those are the parties we have -- presumption --
18 presumed parties that we may have and you -- all you -- you
19 all have applied for party status.

20 So we're asking now is to see whether or not you
21 all can come together and that way we can be more efficient
22 and effective in our hearing process as we move forward.
23 But if not, then either way you all will be heard. Ms.
24 Schellin, am I missing anything? Okay. All right. I want
25 -- and also -- looking at the case I'm just saying this for

1 the applicant, Office of Planning or whomever, there were a
2 lot of things that were brought up about disposition of
3 land.

4 I'm sure our lawyers will tell us -- I think some
5 of those things need to be discussed. While it may not be
6 in the jurisdiction of the D.C. Zoning Commission, I'm just
7 curious -- I may have questions on that and I'm sure my
8 colleagues may have some other questions that may be outside
9 of the scope of what we do, but I'm just curious of how some
10 things work along.

11 So I'm putting that out there now and you know
12 what some of the questions are in the record so when we get
13 there on the 8th we don't have to wait on some answers. We
14 still may have to wait on some but we can try to get as much
15 accomplished on the 8th as possible. Any of my colleagues
16 have anything else to add on that? All right. Ms.
17 Schellin, anything else?

18 MS. SCHELLIN: Also to remind the parties or the
19 potential parties that when they come to have one person who
20 will be representing them as far as cross-examination, that
21 only one person will do the cross.

22 CHAIRPERSON HOOD: And that has been -- you can
23 look at the caselaw. Ms. Schellin is exactly right. So
24 let's make sure that we -- the courts have already ruled on
25 that as far as this process is concerned with us. Anything

1 else, Ms. Schellin?

2 MS. SCHELLIN: No, sir.

3 CHAIRPERSON HOOD: Okay. I want to thank
4 everyone. I appreciate everyone going through this process.
5 Remember the date. It's January the 8th. And on the 8th I
6 announce -- what's the other date?

7 MS. SCHELLIN: The 18th if needed.

8 CHAIRPERSON HOOD: And the 18th. 4 p.m. on these
9 same platforms and we will continue this case. So with that
10 I want to wish everyone -- again, a happy Thanksgiving and
11 this case will be continued. Goodnight, everyone. Thank
12 you.

13 (Whereupon, the meeting was adjourned at 4:21
14 p.m.)

15 * * * * *

16

17

18

19

20

21

22

23

24

25

