### BEFORE THE ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

IN RE:	*	
	*	ZC Case No. 23-02
OFFICE OF PLANNING	*	(Contested Case)
	*	
(Map Amendment to Rezone Square 0175	*	
Lot 826 and Lot 827	*	
Lot 020 and Lot 027	*	

## JOINT MOTION TO EXTEND TIME TO FILE FINDINGS OF FACT AND CONCLUSIONS OF LAW - <u>OFFICE OF ZONING HAS FAILED TO FILE A TRANSCRIPT</u> OF THE MARCH 18, 2024 HEARING

COME NOW Dupont Circle Citizens Association, Black Neighbors of 1617 U Street NW, Homeowners within 200 Feet of Lots 826 and 827 and Randall Jones through their below designated Representatives and request the Commission Extend the Time for Parties to File Findings of Fact and Conclusions of Law and state:

# The current deadline for Parties to file Findings of Fact and Conclusions of Law is Monday, April 15 at 3pm.

- 1. The Office of Zoning has *failed to file* a written transcript of the March 18, 2024 Hearing.
- 2. The March 18, 2024 Hearing contains the *entire* cases-in-chief of *all* the parties in opposition.
- 3. There is no way Movants can submit proposed Findings of Fact with no access to any part of the transcript of their own cases-in-chief. The missing transcript contains *all* the testimony of *every* witness, including *every expert witness*, called by the parties in opposition. In contrast the transcript of the Applicant's case-in-chief is available on IZIS.

Subtitle Z §601 of the Zoning Regulations unambiguously states that no party can be given a deadline to "submit proposed findings of fact and conclusions of law... *less than seven (7) days after the transcript of the public hearing is delivered* to OZ..." This applies to the Applicant (§601.1) but this also governs the deadline for other parties (§601.2).

The District of Columbia Home Rule Act, DC Code § 1-207.42. Open meetings, requires this

Commission to make transcripts of all of its public meetings. Under DC Code § 1-207.42(b) "A written

transcript or a transcription shall be kept for all such meetings [including hearings]..."

*Open Meeting Act* has been violated: § 2–578. of the *Open Meetings Act* states:

(a) All meetings<sup>1</sup> of public bodies, whether open or closed, shall be recorded by electronic means...

(b)(2) A copy of the full record, including any recording or transcript, *shall be made available* for public inspection as soon as practicable, but <u>no later than 7 business days after the meeting</u>. (Emphasis added)

Subtitle Z §104 TRANSCRIPTS OF PUBLIC MEETINGS AND HEARINGS states:

104.1 The transcripts of Commission public meetings and hearings are a matter of public record and shall be available through the Office of Zoning.

104.2 **The public meetings and hearings shall be reported** under the supervision of the presiding officer, **by transcription** or by other means, by an official reporter who may be designated by the Director or who may be an employee of the Office of Zoning.

104.3 The transcript prepared by the reporter shall be the <u>sole official transcript</u> of public meetings and hearings.

# 104.4 Copies of the transcript will be made available by the Office of Zoning fourteen (<u>14) days</u> after the public meeting or hearing. (Emphasis added)

<sup>&</sup>lt;sup>1</sup> § 2–574. defines "meetings" to include hearings:

For the purposes of this subchapter, the term:

<sup>(1) &</sup>quot;<u>Meeting</u>" means any gathering of a quorum of the members of a public body, including <u>hearings</u> and roundtables, whether formal or informal, regular, special, or emergency, at which the members consider, conduct, or advise on public business, <u>including gathering information</u>, <u>taking testimony</u>...

The below screenshots show the March 18, 2024 transcript is missing and has not been posted on IZIS as of April 12, 2024:

Transcript Date	Meeting Type	Transcript Date	Meeting Type
02/23/2023	Public Meeting	01/08/2024	Public Hearin
06/26/2023	Public Hearing	01/18/2024	Public Hearin
11/20/2023	Public Hearing	01/29/2024	Public Hearin
12/14/2023	Public Meeting	02/12/2024	Public Hearin

#### Transcripts

Transcript Date	Meeting Type	Action
02/26/2024	Public Hearing	View
		Showing 9 to 9 of 9 entries
Fin	Previous 1 2 3 Next Last	

### H Videos

Related Videos	Action
Zoning Commission Public Meeting on 02/23/2023	View
Public Meeting Public Meeting on 02/23/2023	View
Zoning Commission Public Hearing on 06/26/2023	View
Public Hearing Public Hearing on 06/26/2023	View
Zasias Completion Dublis Userias as 11/20/2022	5:01 PM nny ヘ (い) 4/12/202

In summary, the written transcript of the crucial March 18, 2024 hearing has not been filed and is not available to the parties. This transcript contains the testimony of all of the witnesses of the parities in opposition. The *Open Meetings Act* and the Zoning Commission's own regulations require the transcript to have been already filed. Subtitle Z §601 is unambiguous that no party can be made to file Findings of Fact less than 7 days after the transcript becomes available."

It is obvious that serious fairness issues and due process issues arise as a result of the March 18,

2024 transcript not being available, especially given the content of this transcript.

A new date needs to be set for the parties in opposition to file their Findings of Fact and

Conclusions of Law after the March 18, 2024 transcript is made available.

For all the foregoing reasons Movants respectfully request the Commission grant this motion.

Respectfully submitted,

<u>/s/ Edward V. Hanlon</u> Edward V. Hanlon, Esq. DC Bar No. 421789 Law Office of Edward V. Hanlon, Chartered 5510 Cherrywood Lane, Suite G Greenbelt, Maryland 20770 (301) 466-4492 Ed.Hanlon.3@gmail.com (Attorney for Dupont Circle Citizens Association)

<u>/s/ Gregory Adams</u> Gregory Adams 2105 17<sup>th</sup> St NW Washington, DC 20009 202 251-7843 <u>Adams.gregory1@yahoo.com</u> (*Representative for Black Neighbors of 1617 U St. NW*)

/s/ Arlene Feskanich Arlene Feskanich 1701 Seaton St NW Washinton, DC 20009 202 387-3681 Feskanicha@gmail.com. (Representative for Homeowners within 200 Feet of Lots 826 and 827)

/s/ Randall Jones Randall Jones 2109 17<sup>th</sup> St NW Washington, DC 20009 609 213-1875 rjj0302@gmail.com (Representative for Randall Jones)

# **CERTIFICATE OF SERVICE**

I certify that on this date one copy of the forgoing Motion was sent via email to the

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/s/ Edward V. Hanlon Edward V. Hanlon, Esq. <u>4/13/24</u> Date