

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR MEETING

+ + + + +

MONDAY

FEBRUARY 25, 2019

+ + + + +

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

ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairperson
- ROBERT MILLER, Vice Chairperson
- MICHAEL G. TURNBULL, FAIA, Commissioner (AOC)
- PETER G. MAY, Commissioner (NPS)
- PETER SHAPIRO, Commissioner

OFFICE OF ZONING STAFF PRESENT:

- SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

- JENNIFER STEINGASSER, Deputy Director, Development
Review & Historic Preservation
- JOEL LAWSON
- ANNE FOTHERGILL
- MAXINE BROWN-ROBERTS

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MAXIMILIAN TONDRO, ESQ.

HILLARY LOVICK, ESQ.

The transcript constitutes the minutes from the Regular meeting held on February 25, 2019.

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

6:40 p.m.

1
2
3 CHAIRMAN HOOD: This meeting will please come to
4 order. Good evening, ladies and gentlemen. This is a public
5 meeting of the Zoning Commission for the District of
6 Columbia. My name is Anthony Hood. We're located in the
7 Jerrily R. Kress Memorial Hearing Room. Joining me this
8 evening are Vice Chair Miller, Commissioner Shapiro,
9 Commissioner May, and Commissioner Turnbull.

10 We are also joined by the Office of Zoning staff,
11 soon to be Ms. -- well, not soon to be -- Ms. Sharon Schellin
12 will be joining us shortly, Mr. Tondro and Ms. Lovick. The
13 Office of Planning staff, we have Ms. Steingasser, Mr.
14 Lawson, Ms. Fothergill, and Ms. Brown-Roberts.

15 Copies of today's meeting agenda are available to
16 you and are located in the bin near the door.

17 We do not take any public testimony in our
18 meetings unless the Commission requests someone to come
19 forward. Please be advised that this proceeding is being
20 recorded by a court reporter. It's also webcast live.

21 Accordingly, we ask you to refrain from any
22 disruptive noise or actions in the hearing room including
23 display of any signs or objects. Please turn off all
24 electronic devices at this time.

25 Does the staff have any preliminary matters?

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1 MS. SCHELLIN: No, sir.

2 CHAIRMAN HOOD: Okay. If not, we will go with our
3 agenda as noted. First we have a Modification of
4 Consequence, Zoning Commission Case No. 08-34I, Modification
5 of Consequence, Capitol Crossing III, LLC. Modification of
6 Consequence at Square 566. Ms. Schellin?

7 MS. SCHELLIN: Yes. The Applicant is seeking to
8 make changes only to the portion of the center block that was
9 approved to be developed as a residential building with
10 ground floor retail.

11 The Applicant proposes to convert the approved use
12 of the building from residential to hotel use with no change
13 to the proposed retail and to proffer a new off-site
14 affordable housing unit.

15 Exhibit 4 is an OP report in which it concurs that
16 the request is a Modification of Consequence and recommends
17 approval of such. Exhibit 5 is an ANC 2C report in support
18 of the request. And there is no report from ANC 2C. So I'd
19 ask the Commission to consider whether this case is indeed
20 a Modification of Consequence and then setting a schedule.

21 CHAIRMAN HOOD: Okay, thank you, Ms. Schellin.
22 Colleagues, I'm being advised that we need more information
23 from the Applicant as to how many affordable units will be
24 directly funded by Capitol Crossing at the Zoning Commission
25 Case Number 18-13 site, because the site will have at least

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1 100 units.

2 But some of these units will be funded by HUD and
3 the HPTF loans. Therefore, it's our understanding what
4 Capitol Crossing is offering, in place of the 50 IZ units on
5 site, I believe we need to understand how many units will be
6 funded by Capitol Crossing and what the affordability period
7 will be, i.e. 40 years or in perpetuity.

8 Therefore, I suggest we table this modification
9 until the next meeting for the Applicant to provide us
10 updated information and any other information that my
11 colleagues may seem necessary.

12 And again, this is coming from Counsel as well,
13 before we can even consider this as a Modification of
14 Consequence and before we go to determination of schedule.
15 Any other comments on this?

16 Commissioner May?

17 COMMISSIONER MAY: Yeah, Mr. Chairman, I'm glad
18 you made that statement and identified the need for
19 clarification. I mean, that was my big question for this.
20 Because we already had, you know, had a hearing on that other
21 building.

22 And it wasn't clear to me what the net increase
23 in the number of affordable units would be for the city, you
24 know, as a whole. It seemed like --- we didn't want this to
25 be --- we would not want this to be a case where the need to

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1 fulfill the requirement for the 50 units on site was not
2 simply a matter of taking credit for something that was
3 happening elsewhere anyway.

4 And I'm not saying that that is the case, but it
5 just wasn't clear from the information that I had seen. So
6 I'm glad you're seeking that clarification. And I agree, we
7 should postpone until we get that information.

8 CHAIRMAN HOOD: Okay. Let me just ask Counsel.
9 Do we need to postpone to a date certain or just wait until
10 we get the information?

11 MR. TONDRO: I think you can wait until you get
12 the information.

13 CHAIRMAN HOOD: So we won't set a date. I know
14 we like to set dates, but we won't set a date in this case.
15 We'll just wait.

16 MR. TONDRO: And to be clear, you can set it, and
17 then let them --- you can set it for a date certain, in other
18 words, in two weeks, and let them provide that information,
19 and review what they provide at that time.

20 CHAIRMAN HOOD: Okay. All right, so we can take
21 this up at our March the 11th meeting. So whatever, Ms.
22 Schellin, can you give them the schedule of when we need
23 things?

24 MS. SCHELLIN: Yes. If they could provide that
25 information by no later than March 4th, and also serve that

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1 on all the parties, including OP, then we can put it on for
2 March 11th, by noon. That would be ---

3 CHAIRMAN HOOD: Okay. Is their Counsel here?
4 Okay, I see her. All right.

5 MS. SCHELLIN: Is that doable? Okay.

6 CHAIRMAN HOOD: All right. Anything else on this,
7 Ms. Schellin?

8 MS. SCHELLIN: No, sir.

9 CHAIRMAN HOOD: All right. With that, I am going
10 to move the agenda around. I'm going to go to
11 correspondence, and then we'll go back to the order. We
12 don't have that many things on the agenda.

13 Let me go to the correspondence case, Zoning
14 Commission Case Number 70-28, WMATA request to extinguish PUD
15 at Square 487. Ms. Schellin?

16 MS. SCHELLIN: Yes. This item, sorry, I'm looking
17 at the wrong document. Correspondence, the Applicant has
18 filed a motion to extinguish the PUD in this case. The
19 subject property was re-zoned pursuant to Zoning Commission
20 Order Number 18-05.

21 Since the re-zoning, WMATA has acquired a new
22 building to relocate its headquarters to after renovations
23 and expansions are completed.

24 And so therefore WMATA is now ready to move
25 forward with the sale or long term lease of the subject

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1 property that they're asking the PUD be extinguished on. And
2 they're submitting this motion for that extinguishment.

3 No response from ANC 2C was received. They were
4 served on February 5th. And so we've asked the Commission
5 to consider this request, this motion before then.

6 CHAIRMAN HOOD: Okay. Colleagues, again on the
7 advice of Counsel, usually when we have an extinguished PUD,
8 this is different from some of the others that we've had to
9 deal with, there is no building on the site. Either it has
10 been built or it has been razed.

11 In this case, neither has happened. This case is
12 different, as the building will still stand. I therefore
13 don't believe that we should be extinguishing the PUD until
14 after indication that the building will conform with all
15 regulations, both use and development standards.

16 If and when the PUD is extinguished, if and when
17 the PUD is extinguished, I would therefore like the Applicant
18 to provide us the information as suggested. We hold off on
19 considering until the next meeting. The next meeting, the
20 agenda seems to be filling up.

21 But on advice of Counsel, I think that is how we
22 need to proceed. We need some additional information on how
23 that's going to be used since this is neither razed -- or
24 either in this case, it's only either built or it has even
25 been razed. Any additional comments on this?

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1 (No audible response)

2 CHAIRMAN HOOD: Mr. Tondro, did I capture all that
3 correctly?

4 MR. TONDRO: Yes.

5 CHAIRMAN HOOD: Okay. All right, is the counsel
6 here?

7 (No audible response)

8 CHAIRMAN HOOD: Okay, did you hear all that? I'm
9 not going to take any questions today. I'm going to do like
10 the President does. I shouldn't have said that. But if you
11 have any questions, you can see Ms. Schellin, or
12 clarifications. But you heard what we need to be done. And
13 if you have any further follow-up, you can see Ms. Schellin,
14 okay.

15 All right. Do we need to do any other actions on
16 this?

17 MS. SCHELLIN: No.

18 CHAIRMAN HOOD: All right. I'm want to thank
19 counsel for making sure that we stay prepared and up to
20 speed. I don't want to take credit for a whole lot of that.
21 But I will, it sounded pretty good.

22 Okay. Let's go back to --

23 MS. SCHELLIN: There's one other correspondence
24 item.

25 CHAIRMAN HOOD: Oh, okay. Well, we might as well

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1 stay in correspondence. Oh, okay.

2 MS. SCHELLIN: If they could also submit their
3 documents by March 4th, that would be great. But to allow
4 time for the ANC to respond --

5 CHAIRMAN HOOD: So let me --

6 MS. SCHELLIN: The ANC could respond by the 11th.

7 CHAIRMAN HOOD: What was the issue? Let me back
8 up. The issue for ANC 6C, let's call it, the time period of
9 ANC's request and Modification of Consequence cases. Is that
10 what you're speaking to?

11 MS. SCHELLIN: No. If I could just go back to 70-
12 28. If the Applicant could provide their response that you
13 asked for by --

14 CHAIRMAN HOOD: Oh, okay.

15 MS. SCHELLIN: -- March 4th, and then we could
16 have the ANC's response, if they choose to provide one, by
17 March 11th and then put this on the March 11th agenda. And
18 I'm sorry, moving on to the next --

19 CHAIRMAN HOOD: Okay, okay.

20 MS. SCHELLIN: -- correspondence item.

21 CHAIRMAN HOOD: A letter from ANC 6C, re: the time
22 period for ANCs to respond in Modification of Consequence
23 cases. Ms. Schellin, do you have anything else you can add
24 to that?

25 MS. SCHELLIN: Yes. So the ANC submitted the

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1 letter stating it had come out of another case, I believe it
2 was 16-10A, that they did not respond on. It was a
3 Modification of Consequence.

4 And they didn't have any response for it. But
5 they felt like, in Modifications of Consequence, even though
6 they're served at the same time, the cases are filed the way
7 that they were reading the regs.

8 And, you know, going back and looking at it, it
9 does appear that way, that the ANCs should wait until the
10 Commission determines whether the case is actually a
11 Modification of Consequence or not before the ANCs respond,
12 or any party for that matter, when the schedule is set up.

13 And then when a week is set up for responses, it
14 doesn't give the ANCs enough time. And so that's what --
15 they were stating that more time should be allotted.

16 And I just wanted to advise the Commission that
17 between staff, OP, and OAG, we are actually in the process
18 currently, I even worked on it over the weekend, of a text
19 amendment that will change that time period to the parties,
20 including the ANC, will have 30 days to respond.

21 CHAIRMAN HOOD: So I guess with that information,
22 I don't know if we have any further follow-up questions. We
23 could just take it for a point of information and wait for
24 that text amendment.

25 MS. SCHELLIN: Right. And at that time, of

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1 course, the ANCs will have an opportunity to respond.

2 CHAIRMAN HOOD: Opportunity to respond, okay. All
3 right. So with, anything else on this, Ms. Schellin?

4 MS. SCHELLIN: No, sir.

5 CHAIRMAN HOOD: All right. Let's go back to our
6 agenda as was noted. I am under Hearing Action now, I
7 believe. Yes. Hearing actions on the Commission Case Number
8 15-20C, TBSC Owner I, LLC, first stage PUD of significance
9 and second stage PUD at Square 620.

10 Ms. Brown-Roberts?

11 MS. BROWN-ROBERTS Good evening, Mr. Chairman and
12 members of the Commission. TBSC Owner I, LLC, submitted an
13 application for modification to the first stage PUD and
14 second stage PUD review for the south parcel on the property
15 known as Sursum Corda.

16 If you look at your computers, there is a map
17 showing the property outline and what the portion that was
18 approved in the first stage PUD for Phase 1, which is the
19 south parcel, and Phase 2, which is the north parcel.
20 Tonight, we're going to be discussing the modification to the
21 first stage PUD and then the second stage for the south
22 parcel.

23 The proposed modification to the first stage PUD
24 would include modification to the theoretical lots to
25 accommodate right of way dedication which resulted in a

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1 reduction in the lot areas, modifications to the building
2 density, massing, and height of some buildings with a notable
3 change being a change from three buildings to two buildings
4 on the south parcel, modification to the location of the
5 loading access serving the buildings on the south parcel, and
6 a revision to Condition B7B to allow the public park
7 improvements with play area equipment to be done prior to the
8 C of O instead of at the time of building permit.

9 Regarding the second stage PUD, it would include
10 a development of the south parcel with 533 residential units,
11 approximately 34,000 square feet of amenity, community, and
12 lobby space along with adjacent right of way improvements,
13 a green space, and improvements of a public park.

14 One building would have nine stories and the
15 second would be eight to ten stories of enclosing private
16 courtyards.

17 A significant feature of the development is a
18 central promenade which would weave through the property from
19 M Street on the north culminating at the public park along
20 L Street. To activate the area, the entrances to the
21 building would be off the promenade along with amenity
22 spaces, some of which would have outdoor seating.

23 The proposal continues to meet the requirements
24 of the C3C PUD zone and had flexibility to consolidate
25 parking and loading to serve both buildings, and to vary the

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1 number of units by plus or minus 10 percent, and other minor
2 areas of flexibility.

3 Public benefits would include the provision of 136
4 reserved units for the returning Sursum Corda families with
5 units ranging from one to four bedrooms at various levels of
6 affordability.

7 The new street grid, sidewalks, and bicycle access
8 would make for much safer movements through the new community
9 as well as to connect to surrounding neighborhood.

10 The proposal continues to be not inconsistent with
11 the future land use map, the generalized policy map, and the
12 mid-city small area plan, as demonstrated in the first stage
13 PUD and in our report.

14 The Office of Planning recommends that the Zoning
15 Commission set down the requested modification to the first
16 stage PUD and the second stage PUD for the south parcel.

17 OP will continue to work with the Applicant to
18 address issues identified in our report and any identified
19 by the Zoning Commission prior to public hearing. Thank you,
20 Mr. Chairman.

21 CHAIRMAN HOOD: Thank you, Ms. Brown-Roberts. I
22 would ask my colleagues to indulge me for one moment. I know
23 you have burning questions, so let's hold those for a moment.

24 But I want the class, I want a representative from
25 the class to come up and just tell us what school you're

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1 from. Because when I see people taking as many notes as you
2 all are taking, I really get inquisitive and want to know
3 what's going on.

4 So somebody come up and represent the class.
5 Don't all rush up now. If you all want to come, that's fine.
6 But if we get one person to come up and represent the class,
7 tell us what school you're from. And actually, I really want
8 to know what's the assignment.

9 (Off microphone comments)

10 CHAIRMAN HOOD: No, I need you to come up and get
11 on the mic and introduce yourself and then tell all your
12 colleagues and school --- yeah, turn the mic on, identify
13 yourself, spell your name. Give him a card, whatever he
14 needs. But have a seat.

15 MS. BRENNER: All right. We're from George
16 Washington University. And we're in a planning cities class.
17 It's a geography class about urban planning.

18 CHAIRMAN HOOD: And what's your name?

19 MS. BRENNER: Hannah Brenner.

20 CHAIRMAN HOOD: You want to introduce everybody
21 else, if they don't mind. Yeah, Natalie O'Dell, Albert Yam,
22 and Charlene Burns.

23 CHAIRMAN HOOD: Okay. Do you find this
24 interesting so far?

25 MS. BRENNER: A little bit.

1 (Laughter)

2 CHAIRMAN HOOD: A little bit? Okay.

3 PARTICIPANT: That's how we feel.

4 MS. BRENNER: Yeah.

5 CHAIRMAN HOOD: Well, we're glad you all came to
6 join us. And watch yourself, go back and show your class and
7 say you even came up to the mic. So we're glad you all
8 joined us. And good luck in school.

9 MS. BRENNER: Thank you.

10 CHAIRMAN HOOD: All right. Does any colleagues,
11 my colleagues have any questions of the Office of Planning?

12 (No audible response)

13 CHAIRMAN HOOD: You must have done a good job.
14 Nobody has any questions on this case. Oh, you're doing a
15 good job over there.

16 Okay, here we go, Mr. Turnbull?

17 MR. TURNBULL: Well, I wanted to thank Ms. Brown-
18 Roberts. I think you raised a couple of points of some
19 information that I think you want also. I think that was
20 very good. I think that those are my concerns also. So
21 thank you again.

22 CHAIRMAN HOOD: Okay. So since we don't have any
23 -- Vice Chair Miller?

24 VICE CHAIR MILLER: Yeah, Mr. Chairman. I would
25 concur with the appreciation of the report from the Office

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1 of Planning. And I support the set down of the hearing with
2 the Applicant providing the information that the Office of
3 Planning has asked for on the bottom of Page 1 and top of
4 Page 2 of its report, including details about the uses
5 proposed within the spaces identified as amenity space,
6 details in the standard for any signage that would be placed
7 on the buildings, information about removal of the
8 transformers from the first street right of way,
9 consideration of adding balconies, that's always a favorite
10 of mine, provide an update on the tenant relocation and
11 replacement plan and details on the required 63 IZ units,
12 that's very important, and consider the use of solar energy,
13 a favorite of Commissioner Shapiro's.

14 And I would add, at Commissioner Turnbull's
15 urging, to consider upping the LEED certification from silver
16 to gold if that's possible.

17 CHAIRMAN HOOD: Okay. All right. So with that,
18 it seems like --

19 VICE CHAIR MILLER: There also were ten conditions
20 in the DDOT report. And we would want information at the
21 hearing about the Applicant's ability to comply with the ten
22 conditions from the Department of Transportation.

23 CHAIRMAN HOOD: Okay. I think we'll hear no
24 objections, but we'll wait for the hearing. So anyway, with
25 all that, I think this is ready, obviously, to be set down.

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1 Would someone like to make a motion to set it down?

2 VICE CHAIR MILLER: Mr. Chairman, I would move
3 that the Zoning Commission set down Zoning Commission Case
4 Number 15-20C, TBSC Owner I, LLC, first stage PUD
5 modification and second stage PUD at Square 620 and ask for
6 a second?

7 COMMISSIONER TURNBULL: Second.

8 CHAIRMAN HOOD: It's been moved and properly
9 seconded. Any further discussion?

10 (No audible response)

11 CHAIRMAN HOOD: All in favor, aye?

12 (Chorus of ayes)

13 CHAIRMAN HOOD: Any opposition?

14 (No audible response)

15 CHAIRMAN HOOD: Not hearing any, Ms. Schellin,
16 would you please record the vote.

17 MS. SCHELLIN: Staff records the vote five to zero
18 to zero to set down Zoning Commission Case Number 15-20C as
19 a contested case. Commissioner Miller moving, Commissioner
20 Turnbull seconding, Commissioners Hood, May, and Shapiro in
21 support.

22 CHAIRMAN HOOD: All right. Thank you. Let's go
23 to our next hearing action case, Zoning Commission Case 19-
24 02, Milestone East Capitol 2 LLC, Milestone East Capitol 3
25 LLC, Milestone East Capitol 4 LLC, and Milestone East Capitol

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1 5 LLC, Map Amendment at Squares 5411, 5412, 5413, and 5413N.

2 Ms. Fothergill?

3 MS. FOTHERGILL: Good evening, Chairman Hood and
4 members of the Commission. For the record, I'm Anne
5 Fothergill with the Office of Planning.

6 OP recommends that the Zoning Commission set down
7 Milestone East Capitol LLC's request for a map amendment to
8 rezone the subject properties from RA1 to RA2. The proposal
9 would not be inconsistent with the Comprehensive Plan.

10 The Comprehensive Plan Future Land Use Map shows
11 the subject properties designated for moderate density
12 residential use, and the Generalized Policy Map shows the
13 properties as a neighborhood conservation area. The proposed
14 map amendment to RA2 would be consistent with these maps.

15 The RA1 zone requires new multi-family residential
16 development be reviewed and approved by the BZA. The RA2
17 zone allows for matter of right development for a multi-
18 family residential building and increased height and density.

19 The proposed rezoning has the support of the
20 Meadow Green Courts Tenants Association, ANC 7F, and Ward 7
21 Council Member Gray.

22 The proposed map amendment is not inconsistent
23 with the Comprehensive Plan, and the Office of Planning
24 recommends that the Milestone East LLC application be set
25 down for a public hearing. And I'd be happy to take any

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1 questions. Thanks.

2 CHAIRMAN HOOD: Thank you, Ms. Fothergill.
3 Commissioners, any questions of OP, questions or comments?

4 (No audible response)

5 CHAIRMAN HOOD: Okay, no questions or comments?
6 Commissioner Shapiro?

7 COMMISSIONER SHAPIRO: Thank you, Mr. Chairman.
8 We're looking for a confirmation that this is a contested
9 case, not a rulemaking case. We're setting this down as a
10 --- if we set it down, we set it down as a contested case?
11 Who's going to help me clarify that?

12 MS. SCHELLIN: That's how the Applicant filed it,
13 as a contested case.

14 CHAIRMAN HOOD: He filed it as contested. So this
15 is not a rulemaking.

16 COMMISSIONER TURNBULL: Okay.

17 CHAIRMAN HOOD: All right, thank you for that
18 clarification.

19 COMMISSIONER TURNBULL: Thank you, Mr. Chair.
20 Okay, so with that, not hearing any questions, everyone did
21 a great job getting this prepped for tonight.

22 Zoning Commission Case Number 19 -- I move that
23 we set down Zoning Commission Case Number 19-02 with all the
24 Milestone East Capitol 2 LLC, three, four, five, at the
25 Squares 5411, 5412, 5413, and 5413N, and ask for a second.

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1 VICE CHAIR MILLER: Second.

2 CHAIRMAN HOOD: It's been moved and properly
3 seconded. Any further discussion?

4 (No audible response)

5 CHAIRMAN HOOD: All in favor, aye?

6 (Chorus of ayes)

7 CHAIRMAN HOOD: Any opposition?

8 (No audible response)

9 CHAIRMAN HOOD: Not hearing any, Ms. Schellin,
10 would you please record the vote?

11 MS. SCHELLIN: Yes. Staff records the vote five
12 to zero to zero to set down Zoning Commission Case Number 19-
13 02 as a contested case, Commissioner Hood moving,
14 Commissioner Miller seconding, Commissioners May, Shapiro,
15 and Turnbull in support.

16 CHAIRMAN HOOD: Okay. Ms. Schellin, do we have
17 anything else?

18 MS. SCHELLIN: I do not.

19 CHAIRMAN HOOD: Office of Planning, do you have
20 anything?

21 MS. STEINGASSER: No, sir.

22 CHAIRMAN HOOD: So let me just suggest to the
23 students, this was a good night to come. You may want to
24 check with our staff so you can see some things. It always
25 doesn't go this smoothly.

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1 So you'll have more paper to write if you come
2 back to some of our cases on some other nights. Because
3 there's a lot more involved in what we do. So I just wanted
4 to say that. You're welcome back any time. And good luck
5 with your careers.

6 Do we have anything else, Ms. Schellin?

7 MS. SCHELLIN: No, sir.

8 CHAIRMAN HOOD: Okay. So with that, this meeting
9 is adjourned.

10 (Whereupon, the above-entitled matter went off the
11 record at 7:04 p.m.)

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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: Regular Meeting

Before: DCZC

Date: 02-25-19

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



Court Reporter

NEAL R. GROSS

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