

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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SPECIAL MEETING

+ + + + +

THURSDAY

JUNE 6, 2019

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The Special 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 6:06 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
- MATT JESICK

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

HILLARY LOVICK, ESQ.

The transcript constitutes the minutes from
the Special Meeting held on June 6, 2019.

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

(6:06 p.m.)

1
2
3 CHAIRMAN HOOD: Okay. Good evening, ladies and
4 gentlemen. We will begin our special public meeting.
5 Today's date is June the 6th, 2019. My name is Anthony Hood.
6 We're located at the Jerrily R. Kress Memorial Hearing Room.
7 Joining me this evening are Vice Chair Miller, Commissioner
8 Shapiro, Commissioner May, and Commissioner Turnbull. We're
9 also joined by the Office of Zoning staff Ms. Sharon
10 Schellin, Office of Attorney General Ms. Lovick, Office of
11 Planning staff Ms. Steingasser, Mr. Jesick, and Mr. Lawson.

12 Copies of today's special public meeting I believe
13 are -- copies located on the table near the door. We do not
14 necessarily take any public testimony at these meetings
15 unless we ask someone to come forward.

16 So, Ms. Schellin, let me ask you if you can call
17 our first case? Well, our only -- well, hold on. Yes, first
18 case.

19 MS. SCHELLIN: Yes, there's two items on the
20 agenda. The first one is Zoning Commission Case No. 18-18,
21 Office of Planning Text Amendment to Subtitle K to Create the
22 Northern Howard Road Zone. This is up for proposed action.

23 MS. LOVICK: Do the 16-29 first.

24 MS. SCHELLIN: I'm sorry. OAG is recommending
25 that the Commission take up the correspondence item first,

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1 which is Zoning Commission Case No. 19-29, Poplar Point RBBR,
2 LLC, Motion to Extinguish the PUD. Ask the Commission to
3 consider that request this evening.

4 CHAIRMAN HOOD: Okay. As we've been advised,
5 we'll take up the extinguishment of 16-29, the extinguishment
6 of the PUD. Commissioner's who'd like to have a word or
7 something to get us started? Commissioner May?

8 COMMISSIONER MAY: Yes, so I personally am
9 comfortable with at this point moving to extinguish this PUD.
10 I think that this is -- I understand that recently the appeal
11 on this case was dropped, and so it could move forward as it
12 was, but -- I mean, maybe we ultimately decide this after we
13 discuss the next case, but I'm thinking that it actually
14 makes sense to move forward with the text amendment -- map
15 amendment strategy in this circumstance for a number of
16 reasons. And I think I'll have more to say when we take up
17 18-18, but I'm comfortable with moving to extinguish this
18 PUD.

19 VICE CHAIR MILLER: Commissioner Shapiro?

20 COMMISSIONER SHAPIRO: I concur, Mr. Chair.

21 CHAIRMAN HOOD: Okay. Anyone else? Vice Chair?

22 COMMISSIONER TURNBULL: I also concur.

23 CHAIRMAN HOOD: Okay. So I'll just say that I am
24 never moved because somebody's taken anything to court. I
25 think that was not a reason for me wanting to even extinguish

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1 the PUD. I think the confluence of factors in this case
2 actually -- we'll see how things move forward, but I think
3 we're trying to pull it back together. But I am not
4 necessarily in favor of taking some -- and I think the PUD
5 though is more specific. I think what's proposed for us is
6 more comprehensive. That's my rationale.

7 It's not because somebody agreed, because the
8 issues which they -- which were mentioned and any appeal will
9 probably still be there. So just because they satisfied that
10 requirement, I still think we're duty-bound to go by the
11 regulations, and I'm sure that's what we're going to do. I
12 think this is just a better fit though in the process that
13 we're moving forward.

14 So with that, do we need to I guess get a motion
15 to extinguish this PUD, 16-29? Somebody can make a motion.

16 COMMISSIONER SHAPIRO: Mr. Chair, I move that we
17 approve the extinguishment -- Zoning Commission Case. No. 16-
18 29, motion to extinguish the PUD.

19 COMMISSIONER MAY: Second.

20 CHAIRMAN HOOD: Okay. It's been moved and
21 properly seconded with the conversation noted. Any further
22 discussion?

23 (No audible response.)

24 CHAIRMAN HOOD: All in favor?

25 (Chorus of aye.)

1 CHAIRMAN HOOD: Any opposition?

2 (No audible response.)

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

5 MS. SCHELLIN: Yes, staff records the vote 5 to
6 0 to 0 to grant the extinguishment of the PUD in Zoning
7 Commission Case No. 16-29. Commissioner Shapiro moving,
8 Commissioner May seconding, Commissioners Hood, Miller and
9 Turnbull in support.

10 CHAIRMAN HOOD: Okay. Now can we go to 18-18?

11 MS. SCHELLIN: Yes, Zoning Commission Case No. 18-
12 18 is up for proposed action, the Office of Planning Text
13 Amendment to Subtitle K to Create the Northern Howard Road
14 Zone.

15 CHAIRMAN HOOD: Okay. I think that the -- and I
16 think this is exactly what we as the Commission tried to do
17 when we did ZR 16 -- with these custom zones. I think this
18 is very applicable for what was trying to be done. And I'm
19 just glad that we have seen a different area besides zone
20 areas that came up when we did ZR 16. And I think this is
21 flavored right to customize the zone. I know we
22 have a few things to discuss, but I want to also make sure
23 that custom zones are not substitutes for PUDs. And I want
24 to make sure that we put that out there on the record for
25 those who may come down. I just want to make sure. That's

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1 another tool for the Zoning Commission PUDs that's been there
2 instead of -- but custom zones are just another tool for us
3 to be able to deal with more of a comprehensive area as
4 opposed to just a specific area of the PUD.

5 So let me open that up. Again, custom zones are
6 no substitutes for PUDs. All right. So, Commissioners, any
7 comments or questions?

8 COMMISSIONER MAY: Mr. Chairman, if I may?

9 CHAIRMAN HOOD: Yes.

10 COMMISSIONER MAY: So I agree with you on both
11 counts. I think that the -- there's -- custom zones are not
12 a replacement for PUDs, and they are used in a number of
13 circumstances and have been used in a number of circumstances
14 across the city. Typically they've been done in cases where
15 we have large areas that need to be rezoned and -- or rather
16 need to be zoned for the first time in some cases, like
17 Walter Reed and Reservation 13 and Southeast Federal Center
18 and so on. And those are usually proceeded by a
19 comprehensive planning effort of some sort. And I don't mean
20 that with a big C comprehensive. I mean a Small Area Plan.

21 And I think in this circumstance it would have
22 been ideal if there had been that -- the full Poplar Point
23 Small Area Plan effort done. That might have been helpful
24 if that had happened up to this point, but it didn't. And
25 this is an area that was already zoned for development and

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1 we're just -- and the Comprehensive Plan guidance supports
2 doing what we did in the PUD initially and what we considered
3 in this custom zone.

4 So I think it's actually a very good tool because
5 I think what I'd be concerned about -- because this is --
6 it's a large area. It would be complex going through
7 multiple Stage 2 PUD applications, and that's not always
8 necessary, and of course people -- because it could be
9 playing out over a long period of time, we could wind up with
10 people trying to reargue the initial Stage 1 PUD. It just
11 -- it gets messy and complicated.

12 And I think we have some examples of how large
13 scale PUDs implemented over a period of decades don't
14 necessarily play out very well. And I think Kenilworth-
15 Parkside is probably the example that pops into my mind
16 immediately where maybe we would have been better off in that
17 circumstance doing a custom zone that established all the
18 benefits that we wanted to see out of it and then given the
19 development community a freer hand to be able to move forward
20 with developing those places. And in the end we would have
21 gotten a comparable level of benefits and probably a little
22 bit faster.

23 So I think in this circumstance it is an
24 appropriate solution. I do agree with the Office of Planning
25 that we should change the percentage requirement for

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1 affordable housing and that we should change the requirement
2 with regard to the MFI level that's necessary in this zone.

3 So, and I think that there were other -- I'm not
4 -- I'll have to -- I'd have to look back at what happened
5 with the other -- with the text amendment that had been
6 requested that was going to use this -- the map amendment
7 that was going to use this zone, but there was language in
8 there that may need to be folded into this, because I think
9 we want to keep the text amendment and any kind of map
10 amendments completely separate.

11 So I am -- and I'm glad we wound up with all of
12 the testimony that we had. I think that the involvement of
13 the community and how this got developed was critically
14 important and I think that in the end we wind up with a
15 strategy for the development of North Howard Road that was
16 -- that would play out well for all involved, and hopefully
17 this will help stimulate the kind of redevelopment that the
18 community is looking for and that the development team and
19 this point is proposing.

20 CHAIRMAN HOOD: Okay. Commissioner Shapiro?

21 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. I
22 agree with Commissioner May. To be specific in what he was
23 referring to, I would suggest that we take the language from
24 -- this is in case 18-19, so I'm not sure whether we need to
25 read that into the record in some way or we can just refer

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1 to it, but it's Exhibit 23, page 3. And these are the
2 specific changes that OP is recommending that I believe
3 should be included into 18-18.

4 CHAIRMAN HOOD: Included in 18-18 or --
5 (Simultaneous speaking.)

6 COMMISSIONER SHAPIRO: It's in 18-19 now and we
7 want to have that be part of this text amendment, 18-18.

8 CHAIRMAN HOOD: But we also want to make sure that
9 we incorporate into to 18-19 and vice versa.

10 COMMISSIONER SHAPIRO: I think when we take up 18-
11 19, we want to be equally clear that we're removing something
12 from 18-19. So we want to both be clear that we're removing
13 it from 18-19 when we get there and that we're adding it to
14 18-18 since we're there now.

15 MS. LOVICK: That's correct.

16 CHAIRMAN HOOD: Okay. But we don't -- 18-18 now.

17 MS. LOVICK: You're on 18-18.

18 CHAIRMAN HOOD: We're on 18-18 now.

19 COMMISSIONER SHAPIRO: So all we're doing there
20 was pulling -- we want to pull some text that is referenced
21 in 18-19 into what's before us right now.

22 MS. LOVICK: That's correct.

23 COMMISSIONER SHAPIRO: So where is that, just to
24 make sure that's included in the record.

25 CHAIRMAN HOOD: It's Exhibit 23, page --

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1 (Simultaneous speaking.)

2 CHAIRMAN HOOD: -- was it in 18-19? Is that
3 adequate?

4 MS. LOVICK: Yes, it's in Exhibit 23 in the 18-19
5 case on page 3.

6 COMMISSIONER SHAPIRO: Okay. So that's what we
7 want to be included now in 18-18.

8 CHAIRMAN HOOD: I'm just not following the
9 procedure, but as long as it gets done -- I'm not following
10 the wording because I think 18-18 needs to also roll over to
11 18-19 because we're in 18-18. But if I said it backwards,
12 we know what we mean. Okay? Because I think we're in 18-18,
13 so we want to roll -- incorporate the language into 18-19.

14 COMMISSIONER SHAPIRO: We want to take the
15 language out of 18-19 and include it in 18-18.

16 MS. LOVICK: Yes, Commissioner Shapiro is correct.

17 CHAIRMAN HOOD: Okay.

18 MS. LOVICK: And the Chair, no, what you said is
19 not correct. Sorry.

20 (Laughter.)

21 CHAIRMAN HOOD: You're really in trouble now.

22 (Laughter.)

23 CHAIRMAN HOOD: You're in more trouble than you
24 ever thought you was in.

25 COMMISSIONER SHAPIRO: My job is done, Mr. Chair.

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1 CHAIRMAN HOOD: Okay. All right. I'm still right
2 regardless.

3 (Laughter.)

4 CHAIRMAN HOOD: Okay. Anyway, just --

5 MS. LOVICK: Always, Mr. Chair. You are always
6 correct.

7 CHAIRMAN HOOD: No, actually I'm not, but I just
8 -- I'm just -- long as it happens, that's all I'm concerned
9 about. Okay. I know where we are, but I've made two
10 mistakes today.

11 (No audible response.)

12 CHAIRMAN HOOD: That was supposed to be a joke.

13 (Laughter.)

14 CHAIRMAN HOOD: Because I made more than two
15 mistakes today. Okay. So whatever it said, it said.

16 Okay. Anything else? Vice Chair Miller?

17 VICE CHAIR MILLER: Thank you, Mr. Chairman. I
18 just wanted to agree with my colleagues. I think that this
19 customized zone is a -- not a substitute, but a good
20 alternative tool, at least in this case where a lot of public
21 benefits are incorporated into the text amendment, the
22 proposed text amendment for the customized zone, including
23 the language that Commissioner Shapiro was just referencing
24 from the map amendment case from 18-19, Exhibit 23, page 3,
25 which just -- so want to make sure that that's included in

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1 the proposed text amendment if it's not already there. And
2 that's the proposed Section 1011.1 in that map amendment
3 case. And it talks about rooftop solar panels in
4 Subsection A. It talks about the set-aside, inclusionary
5 set-aside requirement for three-bedroom units in Subsection
6 B. It has the -- what the set-aside units should be at
7 different levels, 50 percent and 60 percent for those three-
8 bedroom units. It has a reference to stormwater capacity and
9 flood plain.

10 And in addition, as Commissioner May referenced,
11 we -- I also am very supportive of OP's latest recommended
12 amendments, which I think maybe was generated by the
13 community that the inclusionary zoning set-aside, minimum
14 set-aside be beyond what the minimum set-aside is in the IZ
15 law be 15 percent rather than 10 percent of the units. And
16 that I think OP also proposed that any additional affordable
17 units beyond that 15 percent now set-aside, that that be at
18 the 60 percent AMI level.

19 And I saw the language in OP's proposed text for
20 the 60 percent, for the additional IZ being at the 60 percent
21 ANI level or MFI level, but I couldn't find the change from
22 10 to 15 percent. And if it's not there when we advertise,
23 if we get to the point where we're going to vote to advertise
24 this proposed text amendment, which I think is where we're
25 heading, that the 10 to 15 percent change be incorporated

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1 into this proposed text amendment for the IZ set-aside.

2 So all that being said, Mr. Chairman, in general
3 I am supportive of this very customized customized zone that
4 has a lot of benefits in it that fit this large Howard Road
5 Development Opportunity Area, which is consistent with a lot
6 of planning, a lot of text amendments and map amendment that
7 are in the Comprehensive Plan for the Howard Road Area. So
8 I'm ready to move forward.

9 CHAIRMAN HOOD: Okay. And any -- oh, Mr.
10 Turnbull?

11 COMMISSIONER TURNBULL: Yes, thank you, Mr. Chair.
12 I would agree with my -- all of my colleagues' comments, but
13 especially Commissioner Miller. I know -- because of what
14 he just last mentioned was something that I had noticed on
15 the -- Exhibit No. 18, the OP report, where they talk about
16 how the ANC had recommended the 15 percent and later language
17 says OP agrees that 15 percent would be consistent with both
18 stated -- of the zone. So, and again, I didn't see
19 that codified anywhere in the new language, so trusting that
20 that will be codified at some point explicitly as what OP has
21 stated. Other than that I'm fine. I think OP has done a
22 wonderful job.

23 CHAIRMAN HOOD: Okay. I think these changes are
24 not to the point where we need to have a limited scope
25 hearing. I feel good about it. And there's also another

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1 chance in the 30-day review period for comments. I wanted
2 to put that on the record. It's not like we're dismissing
3 these changes or not hearing from public comment. But there
4 will be an opportunity after -- apparently there's things
5 that we're going to be moving forward tonight with this, so
6 there will be an opportunity in between this proposed and
7 final for public comment.

8 Okay. Anything else? Ms. Lovick, was I correct
9 on that or --

10 MS. LOVICK: Yes, sir.

11 CHAIRMAN HOOD: No, I'm just playing. I know I
12 was. I know I was.

13 (Laughter.)

14 MS. LOVICK: Yes, sir.

15 CHAIRMAN HOOD: I'm not always wrong.

16 Commissioner Shapiro?

17 COMMISSIONER SHAPIRO: Yes, I just want to note;
18 I believe I'm right on this, that there were other proposed
19 changes that OP was recommended that are included in what's
20 before us. The ones we're referring to are just ones that
21 were in addition to what we see here and some that we're
22 pulling out of 18-19. I just didn't want to -- because I
23 believe there's a recommendation about a process for how the
24 associated community benefits would be addressed, and even
25 that they might -- that there's a way in which -- there's a

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1 recommendation for how they could come before us. Perhaps
2 we could ask OP to explain that a little bit just to make
3 sure for the record we're clear?

4 CHAIRMAN HOOD: Yes, if need be.

5 MS. STEINGASSER: It's a reporting system. It's
6 a way for the Applicant to report back as the projects move
7 forward rather than have them be conditions at the Zoning
8 Commission. It's simply reporting back on the status.

9 COMMISSIONER SHAPIRO: I appreciate that. And I
10 just think it's worth noting because I think that might be
11 helpful process for us as we move forward that could apply
12 in other situations. Helps us to keep track of promises made
13 and promises kept.

14 CHAIRMAN HOOD: Okay. Anything else?

15 (No audible response.)

16 CHAIRMAN HOOD: All right. I think this -- are
17 there any other comments?

18 (No audible response.)

19 CHAIRMAN HOOD: No other comments?

20 Commissioner Shapiro, since you are always right,
21 make a motion for us.

22 (Laughter.)

23 CHAIRMAN HOOD: I might have some fun with that
24 for a little while.

25 COMMISSIONER SHAPIRO: -- Mr. Chair, that we take

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1 proposed action on Zoning Commission Case 18-18, which is --
2 somebody else read it. It's not in front of me. 18-18,
3 Office of Planning Text Amendment to Subtitle K to Create the
4 Northern Howard Road Zone. Look for a second.

5 VICE CHAIR MILLER: I would second it and
6 incorporate the changes that were recommended by the Office
7 of Planning in addition to the changes that we discussed in
8 our dialogue. Second.

9 CHAIRMAN HOOD: Okay.

10 COMMISSIONER SHAPIRO: Accept that as a friendly
11 change.

12 VICE CHAIR MILLER: Second.

13 CHAIRMAN HOOD: Okay. All right. So it's been
14 moved and properly seconded with incorporation of the
15 discussion that we had up here with those two additional and
16 those other comments that have been listed, noting that
17 comments will be given -- public comments will be received
18 in the 30-day period.

19 Any further discussion?

20 (No audible response.)

21 CHAIRMAN HOOD: All in favor?

22 (Chorus of aye.)

23 CHAIRMAN HOOD: Any opposition?

24 (No audible response.)

25 CHAIRMAN HOOD: Not hearing any, Ms. Schellin,

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1 would you please record the vote?

2 MS. SCHELLIN: Yes, staff records the vote 5 to
3 0 to 0 to approve Proposed Action in Zoning Commission Case
4 No. 18-18 with the changes discussed on the dais.
5 Commissioner Shapiro moving, Commissioner Miller seconding,
6 Commissioners Hood, May and Turnbull in support.

7 CHAIRMAN HOOD: Okay. Ms. Schellin, do we have
8 anything else for the special public meeting?

9 MS. SCHELLIN: We do not.

10 CHAIRMAN HOOD: Okay. I know they asked for five
11 minutes. Tell him he has four minutes and we'll start our
12 hearing.

13 MS. SCHELLIN: Okay.

14 CHAIRMAN HOOD: Okay. All right. With that,
15 we'll be back in four minutes.

16 (Whereupon, the above-entitled matter went off the
17 record at 6:27 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: Special Meeting

Before: DCZC

Date: 06-06-19

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

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