

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

REGULAR PUBLIC MEETING

+ + + + +

WEDNESDAY

NOVEMBER 4, 2020

+ + + + +

The Regular Public Meeting of the District of Columbia Board of Zoning Adjustment convened via Videoconference, pursuant to notice at 9:30 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. Hill, Chairperson
LORNA JOHN, Vice Chair
CHRISHAUN SMITH, Board Member

ZONING COMMISSION MEMBER PRESENT:

ANTHONY HOOD, Chairman
PETER SHAPIRO, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
PAUL YOUNG, Zoning Data Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

DANIEL BASSETT, Esquire
MARY NAGELHOUT, Esquire
ALEXANDRA CAIN, Esquire
JACK RICE, Esquire

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

The transcript constitutes the minutes from the
Regular Public Meeting held on November 4, 2020

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

T-A-B-L-E O-F C-O-N-T-E-N-T-S

Case No. 20184 - Application of Fort Lincoln-Eastern Avenue,
 LLC 6

Case No. 20328 - Application of Madison Heights, LLC 11

HUNT REPORTING COMPANY
 Court Reporting and Litigation Support
 Serving Maryland, Washington, and Virginia
 410-766-HUNT (4868)
 1-800-950-DEPO (3376)

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

(9:41 a.m.)

CHAIRPERSON HILL: Good morning, ladies and gentlemen. The meeting will please come to order. We are convening and broadcasting this decision meeting by video conference. This is the November 4, 2020 public meeting session of the Board of Zoning in the District of Columbia. My name is Fred Hill, Chairperson.

Joining me today is Lorna John, Vice Chair, and Chrishaun Smith, Board Members; and representing the Zoning Commission is Anthony Hood.

Today's meeting agenda is available to you on the Office of Zoning website. Please be advised this proceeding is being recorded by a court reporter and is also webcast live via Webex D.C.-wide. The video of the webcast will be available on the Office of Zoning website after today's meeting session. Accordingly, everyone who is listening on Webex or by telephone will be muted during the meeting.

We do not take any public testimony at our decision meetings.

If you are experiencing difficulty accessing Webex or with your telephone call-in, then please call our OZ hotline number at 202-726-5471, once again that's 202-727-5471, to receive Webex login or call instructions.

At the conclusion of this meeting session I shall, in consultation with the Office of Zoning, determine whether a full

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

1 or summary order may be issued. A full order is required when the
2 decision it contains is adverse to a party, including an affected
3 ANC. A full order may also be needed if the Board's decision
4 differs from the Office of Planning's recommendation.

5 Although the Board favors the use of summary orders
6 whenever possible, an applicant may not request the Board to issue
7 such an order.

8 Preliminary matters are those which relate to whether a
9 case will or should be heard today, such as a request for a
10 postponement, continuance or withdrawal, or whether proper and
11 adequate notice of the meeting has been given.

12 Mr. Secretary, do we have any preliminary matters?

13 MR. MOY: Good morning, Mr. Chairman, members of the
14 Board. I do not at this time, but I do have a couple on two or
15 three cases, probably more as a reminder to the Board, but I can
16 note that when I call the case, sir.

17 CHAIRPERSON HILL: Okay. Great. Thanks.

18 Hey, Mr. Young, can you hear me?

19 MR. YOUNG: Yes, I can.

20 CHAIRPERSON HILL: Do you know if I turn off the video
21 and just use -- or turn off the audio and just use the audio from
22 the phone, would that be any different? I guess probably not,
23 right?

24 MR. YOUNG: You could do that. I mean this -- it's
25 working fine right now. But if you want to just save you the

1 trouble of if it possibly goes down and --

2 CHAIRPERSON HILL: Well, let's see what happens then.
3 Let's see what happens. I mean, what you all don't know is, like,
4 the different video screens are kind of lagging. And so I'm more
5 concerned when we bring people into the hearing room what might
6 happen. And so -- but let's just go ahead and take it by --

7 MR. YOUNG: I'll let you know when I bring people in and
8 who's in.

9 CHAIRPERSON HILL: Okay. All right.

10 Mr. Moy, if you want to go ahead and call our first --
11 our only meeting case as a matter of fact. You're on mute, Mr.
12 Moy.

13 MR. MOY: Terribly sorry. Okay. That's number one for me.
14 Actually, Mr. Chairman, we have -- the Board has to take two
15 actions on two separate cases in the meeting session. And this
16 first one pertains to case Application No. 20184 of Fort Lincoln-
17 Eastern Avenue, LLC. This is a motion to reopen the record from a
18 party status in opposition. And for the record, I would like to
19 read the caption to this case. And it -- as I said, case
20 Application No. 20184 as amended for special exceptions under the
21 theoretical lot subdivision requirements, Subtitle C, Section
22 305.1, and under the new residential development requirements of
23 Subtitle U, Section 421. This would allow a new residential
24 development project of 51 townhouses in the RA-1 and RA-4 Zones at
25 premises bounded between Eastern Avenue Northeast, Bladensburg

1 Road Northeast, and Fort Lincoln Drive Northeast, Square 4325,
2 Lots 802 and 44, and Parcel 0174/15.

3 CHAIRPERSON HILL: Okay. Thank you.

4 Are we all ready to deliberate? I can start with my
5 thoughts. I'm not really comfortable reopening the record, I mean,
6 after this point in time. I mean, we had the hearing. It was a
7 very full hearing. And then we also had our deliberations. We had
8 made a decision. And everything was done. I mean, now the only
9 thing that was remaining was for the order to actually be issued.

10 So in general, I don't see really kind of what the point
11 is of reopening the record and putting things into the record
12 because to me, it seems like that would prejudice maybe the other
13 parties that have kind of -- you know, they're not necessarily
14 paying attention -- well, not paying attention to the record
15 because other people would let them know that things have been put
16 into the record. But I just didn't -- I think it's unnecessary.
17 And then, in addition to that, I think that what was being asked
18 to be added into the record are things that were already in the
19 record, I mean, things that are just basically duplicative. So I'm
20 opposed to the motion to reopening of the record.

21 Chairman Hood, may I start with you?

22 CHAIRMAN HOOD: I also would agree with your assessment.
23 I think this is setting the wrong precedent as the Board has
24 usually -- once we finish a case, we're through with it. And I
25 will tell you that if there was some new information provided,

1 | which I don't believe it is, then that would be maybe a reason.
2 | Some new information that was discovered after the fact. I don't
3 | believe this is the case, and I am not in favor of reopening the
4 | record. I think the record stands for itself, and I agree with
5 | (audio interference) information that I see here (audio
6 | interference). I think we've exhausted all those areas, and I
7 | think it's already in the record. So I'll leave it at that. I
8 | agree with your assessment.

9 | CHAIRPERSON HILL: Mr. Smith?

10 | MEMBER SMITH: I second Chairman Hood. (Audio
11 | interference) of what was submitted (audio interference). And I
12 | couldn't find anything that was noticeably different from what was
13 | already in the record of when we decided this case last month. So
14 | I would also not support reopening the record. I believe that what
15 | was submitted is highly definitive of what was already submitted
16 | previously. And that's where I stand, and I would not support.

17 | CHAIRPERSON HILL: Ms. John?

18 | VICE CHAIR JOHN: With the comments so far, I don't
19 | believe that there is anything new that's being proposed here and
20 | so I would oppose reopening the record.

21 | CHAIRPERSON HILL: Okay.

22 | I'm going to make a motion to deny the motion to reopen
23 | the record.

24 | And ask for a second, Ms. John?

25 | VICE CHAIR JOHN: Second.

1 CHAIRPERSON HILL: The motion has been made and seconded.

2 Mr. Moy, could you please take a roll call vote?

3 MR. MOY: Yes, Mr. Chairman. When I call your name, if
4 you would please respond with a yes, no, or abstain to the motion
5 made by Chairman Hill to deny the motion to reopen the record,
6 seconded by Vice Chair John. Zoning Commission Chair Anthony Hood?

7 CHAIRMAN HOOD: Yes to the motion.

8 MR. MOY: Mr. Smith?

9 MEMBER SMITH: Yes to the motion.

10 MR. MOY: Vice Chair John?

11 VICE CHAIR JOHN: Yes.

12 MR. MOY: Chairman Hill?

13 CHAIRPERSON HILL: Yes.

14 MR. MOY: And we have a Board seat vacant, Mr. Chairman,
15 so that would give a resulting vote of 4 to 0 to 1. And this is on
16 the motion by Chairman Hill to deny the motion to reopen the
17 record, seconded by Vice Chair John. Also in support of that
18 motion is the Zoning Commission Chair Anthony Hood, Mr. Smith, and
19 of course Vice Chair John, and yourself, Mr. Chairman. The motion
20 carries to deny it.

21 CHAIRPERSON HILL: All right. Thanks, Mr. Moy. You said
22 there was one other thing for the meeting?

23 MR. MOY: Yeah. So my question to you, Mr. Chair, is do
24 you want to address this motion for advance party status or jump
25 out of the meeting session to go directly to the hearing session?

1 | Because Mr. Hood is sitting on that first case in the hearing
2 | session.

3 | CHAIRPERSON HILL: Oh. Who's the -- who's on the motion
4 | for advance party status?

5 | MR. MOY: Well, it could be the Zoning Commissioner Peter
6 | Shapiro because he's sitting with the Board all day. Or if you
7 | want to leave him out, I still have a quorum of you, the Vice
8 | Chair, and Mr. Smith.

9 | CHAIRPERSON HILL: Okay. I mean, I'm happy -- I think
10 | it's pretty clear as to where we would be on this advance party
11 | status right now. So do you want to go ahead and call it, and then
12 | I'll just go ahead, and we can take a vote?

13 | MR. MOY: Okay. Thank you, sir.

14 | MR. HOOD: Mr. Chairman? Mr. Chairman?

15 | CHAIRPERSON HILL: Yes, Mr. Hood?

16 | CHAIRMAN HOOD: Is there a way that we can bring Mr.
17 | Shapiro in so the Zoning Commission (audio interference)?

18 | CHAIRPERSON HILL: That's fine. And I thought -- I'm
19 | sorry, Chairman Hood. I thought you were going to be that person.

20 | CHAIRMAN HOOD: I can -- I can be because it's very
21 | simple. It's very straightforward. I just -- let me stay. Let me
22 | just deal with this, and Commissioner Shapiro can pick up the case
23 | if he wants.

24 | CHAIRPERSON HILL: Yeah. I mean, I don't think -- I don't
25 | know if -- and Chairman Hood, the reason why I'm pausing is I

1 don't know if Commissioner Shapiro is actually there on the day
2 that we're going to hear this. So I don't think it matters.

3 Unless, Mr. Moy, you know that Commissioner Shapiro is
4 there on the day that we're going to hear this?

5 CHAIRMAN HOOD: So this is -- Mr. Chairman, I think I can
6 participate on this. This is very straightforward, and whoever the
7 Commissioner is can pick this up.

8 CHAIRPERSON HILL: Okay.

9 CHAIRMAN HOOD: And just be a part of it.

10 CHAIRPERSON HILL: Okay. I mean, it looks like
11 Commissioner Shapiro is right there now, so I guess it doesn't
12 really matter.

13 So Commissioner Shapiro, can you hear me?

14 COMMISSIONER SHAPIRO: I can, Mr. Chair.

15 CHAIRPERSON HILL: Okay. All right.

16 So Mr. Moy, we'll use Commissioner Shapiro for this
17 advance party status and see what happens. Okay?

18 MR. MOY: Okay. Very good. Thank you, Mr. Chairman. Okay.
19 So this is -- let me call this case. So this is case Application
20 No. 20328 of Madison Heights, LLC. And there is a motion for
21 advance party status. And the caption as advertised reads as a
22 special exception under the new residential development
23 requirements of Subtitle U, Section 421.1 which would add six
24 additional units to an existing principal dwelling unit in the
25 RA-1 Zone at premises 1214 Madison Street Northwest, Square 2934,

1 Lot 35.

2 CHAIRPERSON HILL: Okay. All right.

3 Mr. Smith, can you hear me?

4 MEMBER SMITH: Yes, I can.

5 CHAIRPERSON HILL: I just need somebody. You're the only
6 picture that I see right now, so I just needed somebody to let me
7 know that you all can still hear me.

8 Let's see. In terms of this advance party status, I
9 mean, I've read the argument, and I believe that the person is
10 going to be uniquely affected. And so I would be in favor of the
11 advance party status. I mean, they're actually sharing a property
12 line with the project. So I'm going to be voting in favor of the
13 advance party status.

14 Mr. Shapiro, do you have anything to add?

15 COMMISSIONER SHAPIRO: I do not, Mr. Chair. I have
16 nothing to add. I concur.

17 CHAIRPERSON HILL: Okay.

18 So then rather than going around the horn here, I'm
19 going to go ahead and make a motion to approve --

20 And I don't even know if it has to be a motion, Mr. Moy.
21 Does it have to be a motion?

22 MR. YOUNG: Mr. Chair, Mr. Moy has a question.

23 MR. MOY: Yeah. I just want to note for the record, Mr.
24 Chair, there -- I believe -- and Mr. Young can verify, but I
25 believe the maker of the request for advance party status is "in,"

1 | if I can use that word, as well as Mr. Brown. So if you want to
2 | hear from them, they're in the Webex session.

3 | CHAIRPERSON HILL: Yeah, that's okay. I mean --

4 | MR. MOY: I just wanted to note that. Okay.

5 | CHAIRPERSON HILL: I appreciate that. We don't take
6 | anyone during our meeting sessions. And so this is just a meeting
7 | session argument and I think the record's full in terms of whether
8 | or not to grant this party status.

9 | So, again, I can't see anybody's face. So please speak
10 | up if you need to say anything. And I'm going to --

11 | Mr. Moy, do I need to make a motion, or I can just make
12 | it on my own motion?

13 | MR. MOY: You can make your motion, sir. And we can take
14 | a roll call vote.

15 | CHAIRPERSON HILL: Okay. All right.

16 | So then I'll go ahead and make a motion to approve the
17 | advance party status as captioned by -- or sorry -- as read by the
18 | Secretary.

19 | And ask for a second, Ms. John?

20 | VICE CHAIR JOHN: Second.

21 | CHAIRPERSON HILL: Mr. Moy, could you take a roll call
22 | vote?

23 | MR. MOY: Yes, sir. When I call your name, if you would
24 | please respond with a yes, or no, or abstain to the motion made by
25 | the Chairman to grant the motion for advance party status,

1 seconded by Vice Chair John. Zoning Commissioner Peter Shapiro?

2 COMMISSIONER SHAPIRO: Yes.

3 MR. MOY: Mr. Smith?

4 MEMBER SMITH: Yes.

5 MR. MOY: Vice Chair John?

6 VICE CHAIR JOHN: Yes.

7 MR. MOY: Chairman Hill?

8 CHAIRPERSON HILL: Yes.

9 MR. MOY: We have a Board seat vacant. Staff would record
10 the vote as 4 to 0 to 1. This is on the motion of Chairman Hill to
11 grant the request for advance party status and seconded by Vice
12 Chair John. Also in support, Zoning Commissioner Peter Shapiro,
13 Mr. Smith, and of course Vice Chair John and Mr. Chairman. The
14 motion carries, sir.

15 CHAIRPERSON HILL: Okay. Great. All right. All right.

16 So Mr. Shapiro, we'll see you later in the day.

17 And I'm going to go ahead and read into the hearing.

18 (Whereupon, the above-entitled matter went off the
19 record at 9:45 a.m.)

20

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Meeting

Before: DCBZA

Date: 11-4-20

Place: Teleconference

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

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)