

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR PUBLIC MEETING

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THURSDAY

APRIL 29, 2021

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

ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairperson
- ROBERT MILLER, Vice Chairperson
- PETER SHAPIRO, Commissioner
- PETER MAY, Commissioner
- MICHAEL TURNBULL, Commissioner

OFFICE OF ZONING STAFF PRESENT:

- SHARON S. SCHELLIN, Secretary
- PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF:

- ANNE FOTHERGILL
- JENNIFER STEINGASSER

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

- MAXIMILIAN TONDRO, ESQ.
- ALEXANDRIA CAIN, ESQ.

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The transcript constitutes the minutes from the
Regular Public Meeting held on April 29, 2021.

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(4:00 p.m.)

CHAIRPERSON HOOD: Good afternoon, ladies and gentlemen. We are convening and broadcasting this public meeting by video conferencing.

My name is Anthony Hood. Joining me this afternoon are Vice Chair Miller, Commission Shapiro, Commissioner May, and Commissioner Turnbull. We're also joined by the Office of Zoning staff, Ms. Sharon Schellin; and also Office of Zoning Staff, Mr. Paul Young, who handles all of our virtual operations. I will ask all others to introduce themselves at the appropriate time.

Copies of today's meeting agenda are available on the Office of Zoning's website. Please be advised this proceeding is being recorded by a court reporter and is also webcast live, Webex and YouTube Live. The video will be available on the Office of Zoning's website after the meeting. Accordingly, all those listening on Webex or by phone will be muted during the meeting unless the Commission suggests otherwise.

For hearing action items, the only documents before us this evening are the application, the ANC set down report, and the Office of Planning report. All other documents in the record will be reviewed at the time of the hearing.

Again, we do not take any public testimony at our meetings unless the Commission requests someone to speak.

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1 with your phone call-in, then please call our OZ hotline number
2 at 202-727-5471, for Webex log-in or call-in instructions. With
3 that, does the staff, Ms. Schellin have any preliminary matters?

4 MS. SCHELLIN: The staff has no preliminary matters.

5 CHAIRPERSON HOOD: So I have one preliminary matter and
6 it is really not preliminary because we have not changed. I was
7 going to relax the dress code. The dress code has really been
8 relaxed, especially this time, so now we will relax it. The only
9 thing we request is that we don't wear our pajamas. But since
10 we've been home, I would also say that to the public as well,
11 even though we actually haven't relaxed since we've been going
12 through COVID-19. Really officially now, the summer weather is
13 breaking so wear something cool, come relaxed and let's take care
14 of the city's business. So with that.

15 MS. SCHELLIN: Chairman Hood, did you want to bring up
16 the one hearing item -- hearing action item as a preliminary
17 matter, 20-02A?

18 CHAIRPERSON HOOD: Okay, are we going to do that first?
19 Do we have --

20 MS. SCHELLIN: I thought you were going to bring that
21 up as a preliminary matter to get that going so that the people
22 who are tuned in to watch that could -- will know what's going
23 on with it.

24 CHAIRPERSON HOOD: Okay, we will do that. I really
25 wanted people to watch us. The more people we have, the more

1 people will watch us and see what is going on, but let's go ahead
2 and take care of that.

3 Ms. Schellin, could you call that one for me while I'm
4 opening up my file, please?

5 MS. SCHELLIN: Yes, sir. Under hearing action item
6 number B, I believe it is, we have Case Number 20-02A. This was
7 the text amendment case filed by the Office of Planning, and it
8 is for an amendment to Subtitles B, C, F, G, I, K, U, X and Z.
9 It is with regard to expanded inclusionary zoning.

10 CHAIRPERSON HOOD: Okay. Again, this is Zoning
11 Commission Case 20-02A. We know what the issues are on this. I
12 want to ask Commissioner Shapiro if he could tee that one up for
13 us, please.

14 COMMISSIONER SHAPIRO: Yes sir, Mr. Chair. I think -
15 - I just want to make sure I have my notes right. So the question
16 is the -- hold on, Mr. Chair.

17 CHAIRPERSON HOOD: Okay. Take your time. Let me get
18 my files open.

19 COMMISSIONER SHAPIRO: Okay, so I'm with you. So the
20 reason we are bringing this up as a preliminary matter is because
21 we believe that this case should be incorporated into Zoning
22 Commission Case Number 20-02. And if that's the case, then
23 there's sort of a logical next step for us to do -- the action
24 that we need to do to do that. So I guess the first question
25 before us is, do we agree that this case should be incorporated

1 into Zoning Commission Case 20-02?

2 CHAIRPERSON HOOD: Okay. You heard Commissioner
3 Shapiro's report to us. Colleagues, any objections?

4 COMMISSIONER SHAPIRO: And in part, let me just add one
5 thing -- in part, what we're responding to is public comment, and
6 specifically public comment to The Committee of 100 is part of
7 what's triggering it. So, I just wanted to throw that in as
8 well.

9 CHAIRPERSON HOOD: All right. And let me just also
10 add, but also, even though The Committee of 100 mentioned that,
11 I think DCBIA had a part to do it. So this is in response, not
12 in full, but in part, so thank you, Commissioner Shapiro for
13 teeing it up. So no issues with that.

14 COMMISSIONER SHAPIRO: If that's the case, then the
15 next step would be for us to rescind the vote to take final action
16 in Zoning Commission Case Number 20-02 and incorporate -- if we
17 go to the OP report -- incorporate OP's reports into -- that
18 were a part of this case into -- that are a part of 20-02A into
19 Zoning Commission Case 20-02.

20 CHAIRPERSON HOOD: Okay.

21 COMMISSIONER SHAPIRO: That action by the Commission
22 would be to rescind the vote to take final action in Zoning
23 Commission Case 20-02.

24 CHAIRPERSON HOOD: Okay. Commissioner Shapiro, are you
25 ready to rescind the vote, or would you like me to make the

1 motion?

2 COMMISSIONER SHAPIRO: I can make the motion, Mr.
3 Chair.

4 CHAIRPERSON HOOD: Go right ahead.

5 COMMISSIONER SHAPIRO: I would move that we rescind our
6 vote to take final action in Zoning Commission Case Number 20-02
7 and to incorporate OP's reports that are in Zoning Commission
8 Case 20-02A into Zoning Commission Case Number 20-02. That's the
9 motion.

10 CHAIRPERSON HOOD: Okay, it's been moved and I'll
11 second it. It has been moved and properly second. Any further
12 discussion? I'm not seeing any. Let me just do this.

13 Mr. Tondro, the path we're going, is everything is
14 legally sufficient in the motion?

15 MR. TONDRO: Yes, it's perfect.

16 CHAIRPERSON HOOD: Okay. Great. He said "perfect"; way
17 to go. All right. So, no discussion. Thank you, Mr. Tondro.

18 Okay. Ms. Schellin, could you do a roll call vote,
19 please?

20 MS. SCHELLIN: Commissioner Shapiro?

21 COMMISSIONER SHAPIRO: Yes.

22 MS. SCHELLIN: Commissioner Hood?

23 CHAIRPERSON HOOD: Yes.

24 MS. SCHELLIN: Commissioner May?

25 COMMISSIONER MAY: Yes.

1 MS. SCHELLIN: Commissioner Miller?

2 VICE CHAIR MILLER: Yes.

3 MS. SCHELLIN: Commissioner Turnbull?

4 COMMISSIONER TURNBULL: Yes.

5 MS. SCHELLIN: The motion carries 5-0-0, Commissioner
6 Shapiro moving, Commissioner Hood seconding, the others in favor
7 of rescinding the final action vote in Case Number 20-02 and
8 incorporating the OP reports in Case 20-02A into Case Number 20-
9 02, and staff will close the record in 20-02A.

10 COMMISSIONER SHAPIRO: Thank you. Mr. Chair, our next
11 step would be, if we concur, our next step would be to take
12 proposed action to revise the text for Zoning Commission Case 20-
13 02 -- oh, no, we've done that. So then, I think Mr. Tondro, maybe
14 you could help me out here.

15 COMMISSIONER MILLER: No, you were correct in what you
16 were starting to say.

17 COMMISSIONER SHAPIRO: Okay, so then we need to take
18 proposed action to revise -- right, because we reopened 20-02.
19 So the motion would be to take proposed action to revise the text
20 of Zoning Commission Case 20-02 by adopting OP's recommended
21 revision in its report that we just brought into this and
22 authorize the revised Notice of Proposed Rulemaking with a
23 shortened notice period of, say, seven days.

24 CHAIRPERSON HOOD: Okay. Is that your motion,
25 Commissioner Shapiro?

1 COMMISSIONER SHAPIRO: Yes, Mr. Chair.

2 CHAIRPERSON HOOD: Okay. I will second that motion.
3 I think we have everything that we need legally. So it has been
4 moved and properly second. Any further discussion?

5 (Negative head shake.)

6 Okay. Ms. Schellin, would you do a roll call vote,
7 please?

8 MS. SCHELLIN: Commissioner Shapiro?

9 COMMISSIONER SHAPIRO: Yes.

10 MS. SCHELLIN: Commissioner Hood?

11 CHAIRPERSON HOOD: Yes.

12 MS. SCHELLIN: Commissioner May?

13 COMMISSIONER MAY: Yes.

14 MS. SCHELLIN: Commissioner Miller?

15 VICE CHAIRPERSON MILLER: Yes.

16 MS. SCHELLIN: Commissioner Turnbull?

17 COMMISSIONER TURNBULL: Yes.

18 MS. SCHELLIN: The vote is 5-0-0 to take a revised
19 proposed -- to approve the revised proposed rulemaking in Case
20 Number 20-02 for a shortened notice period of seven days.

21 CHAIRPERSON HOOD: Okay. Commissioner Shapiro, I think
22 we're done with that. Thank you for quarterbacking us through
23 that. I greatly appreciate it. It was very well done. Thank
24 you.

25 All right. Let's go to our regular agenda, back to our

1 agenda, consent calendar item, modification of consequence,
2 determination and scheduling in Zoning Commission Case Number 06-
3 14H, Washington Gateway Three, LLC and MRP Realty, PUD
4 modification of consequence in Square 3584. Ms. Schellin?

5 MS. SCHELLIN: Yes, sir. The applicant is seeking a
6 modification of consequence to allow commercial retail and
7 cultural uses until the construction of the above grade
8 improvements of the South Tower, until that commences. This
9 request is made concurrent with and contingent upon approval of
10 a time extension request at Case Number 06-14G, which is also
11 being considered later on on the same agenda. So would ask the
12 Commission to consider action -- I'm sorry -- consider first
13 whether this is indeed a modification of consequence and if so,
14 to set a schedule for the parties to respond.

15 CHAIRPERSON HOOD: Okay. Commissioners, this is
16 determination and scheduling. Does anyone believe that this is
17 not a modification of consequence? I'm seeing by (audio
18 interference). Let me do like Chairman Hill. If you believe it
19 is not a modification of consequence, please raise your hands.
20 (Audio interference); don't tell him I said that.

21 (No hands raised.)

22 Okay. So, Ms. Schellin, we will treat this as a
23 modification of consequence. Could you do scheduling, please?

24 MS. SCHELLIN: Yes. So if the parties would respond
25 by May 6th, we can put this on the agenda for May 13th. I will

1 leave that to put that on the applicant, to reach out to the
2 parties and advise them of those things. Thank you.

3 CHAIRPERSON HOOD: Okay. Thank you. Our next case is
4 Zoning Commission Case is 05-36L, Toll DC II, LP, PUD modification
5 of consequence at Square 749. Ms. Schellin.

6 MS. SCHELLIN: In this case, the applicant is seeking
7 flexibility to include limited animal care and boarding uses
8 within a portion of the multiphased PUD. They have requested a
9 waiver from Subtitle X, Section 703.6 for the Commission to
10 consider their request as a modification of consequence instead
11 of a modification of significance. At Exhibit 4, there's an OP
12 report that does not object to the applicant's waiver request and
13 recommends that the Commission approve the applicant's requested
14 use of the ground floor. Again, if the Commission would first
15 decide whether they do think this is indeed a modification of
16 consequence and if so, set a schedule for the parties to respond.

17 CHAIRPERSON HOOD: Okay. Let me open it up.
18 Commissioners, does anyone believe that this is not a
19 modification of consequence? Mr. Turnbull. Okay.

20 COMMISSION TURNBULL: Do you want me to explain my
21 reasons?

22 CHAIRPERSON HOOD: You can, if you choose to.

23 COMMISSIONER TURNBULL: I think that this request
24 triggers new relief -- that this new relief triggers the notice
25 requirement under the ANC Act, which the Commission cannot waive.

1 And that being the case, I think it automatically bumps us up to
2 a modification of significance.

3 CHAIRPERSON HOOD: I think the intensity, as Mr.
4 Turnbull has mentioned, the intensity of the use, I think this
5 may move to a modification of significance. Any other comments
6 on this, Commissioners? Okay, so not hearing any, we will move
7 this to a modification of consequence. I believe, Ms. Schellin,
8 we will --

9 COMMISSIONER SHAPIRO: Mr. Chair, I think it is a
10 modification of significance.

11 CHAIRPERSON HOOD: What did I say -- modification of
12 significance. Thank you for the correction.

13 We will have this modification of significance and we
14 will Ms. Schellin if you could ask the applicant to file the
15 proper paperwork in that order in this particular case and
16 anything else that is needed.

17 MS. SCHELLIN: Staff will advise. Thank you.

18 CHAIRPERSON HOOD: Okay. I am just making sure we have
19 done everything. Yeah, I think we have done everything legally
20 sufficient on this one.

21 All right. Let's keep moving.

22 Let's go to final action on Zoning Commission Case
23 Number 20-32, 45 Q Street, 657 Southwest, LLC, design review at
24 Square 657. Ms. Schellin.

25 MS. SCHELLIN: In this case of Exhibits 28 through 28-

1 G and 30 and 31-A, we have the applicant's post-hearing
2 submissions. At Exhibit 29, there's an ANC 6D report advising
3 of and enclosing a copy of the unsigned Good Neighbor Agreement
4 that was discussed; and at Exhibit 30, there's an OP supplemental
5 report. We would ask the Commission to consider taking final
6 action this evening.

7 CHAIRPERSON HOOD: Okay. Let me start off. I will say
8 the Good Neighbor Agreement, I'm glad to see they have one, even
9 though I know it has not fully been signed. Typically --
10 hopefully, they can get that signed and get that into the record,
11 but typically, all our orders would do is point to any agreements
12 between a community or an ANC and the applicant. I want to make
13 sure we put that on the record because we cannot intervene in
14 those agreements, but I am hoping that both parties will stand
15 up to those agreements, but it is good to see that they got an
16 agreement, because at first, I think the ANC was in opposition.
17 So let me open it up for any questions or comments. Anybody?
18 Commissioner Shapiro.

19 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. I have
20 just one thing to add, if my colleagues agree, is that Exhibit
21 28A, the applicant has provided more information about the
22 planned penthouse use, and if we could ask the OAG to work with
23 the applicant to make sure the ones that are relevant are included
24 as part of (audio interference) compliance with (audio
25 interference). So some of them are not particularly relevant, but

1 there's a few that are and that will be clear with OAG with the
2 ones that they think (audio interference).

3 CHAIRPERSON HOOD: Any objections to Commissioner
4 Shapiro?

5 (Negative head shake.)

6 CHAIRPERSON HOOD: Okay. sounds good. I think we all
7 agree on that. Commissioner Turnbull.

8 COMMISSIONER TURNBULL: Well, Mr. Chair, I just wanted
9 to point out one change that the applicant made, which -- on the
10 interior courtyard, which had been put down as corrugated gray
11 metal, which when you looked at the drawings and you saw the
12 renderings of it, it really looked very dark, almost black
13 looking. And I had asked them at that point in time, I said,
14 "Gee, that really needs to be a little bit lighter," because this
15 could be a totally enclosed courtyard at some point. So they
16 have proposed a greenish tinge and they got to a copper patina
17 finish for metals, which I think in the long run will be a lot
18 better for the people living there. It will be a little bit
19 lighter for someone to look out at. So I just wanted to point
20 that out. I think that was a good step forward, so I'm glad that
21 they've made the change.

22 CHAIRPERSON HOOD: Thank you, Mr. Turnbull. I know,
23 as was stated, the IZ, the number of units and the location, the
24 Housing Trust Fund contribution was done; as you mentioned, about
25 the courtyard design; the loading diagrams and the lead

1 information, so I don't know who asked for some of those things,
2 but if you want to respond to that or anything else, you can go
3 right ahead.

4 COMMISSIONER MAY: Yeah, I'm glad you mentioned the
5 Housing Production Trust Fund donation or contribution because
6 that was a question for me. I'm glad that that was clarified.
7 I'm also glad to see the other the changes to the design that
8 Commissioner Turnbull had been requesting. You know, otherwise,
9 I think everything is pretty much in order with the conditions
10 that Commissioner Shapiro was suggesting we make with regard to
11 the rooftop.

12 CHAIRPERSON HOOD: Okay. Any other comments? Vice
13 Chair Miller.

14 VICE CHAIRPERSON MILLER: Yeah, just following up on
15 Commissioner May's comment. Yeah, I appreciate that clarification
16 on the (audio interference) penthouse requirement -- penthouse
17 space triggering a -- just again, for the public record, it is
18 almost 161,000 dollars to the Housing Production Trust Fund and
19 that's -- pursuant to our regulations, and that's in addition to
20 the -- I think it's this case that 10 out of the 60 rental units
21 will be offered at the inclusionary zoning affordability level
22 and all the other requirements of IZ, so, I'll state that again
23 for the record.

24 CHAIRPERSON HOOD: Okay. Anyone else?

25 All right. So again, the legal standards for this

1 is -- as we all mentioned before, I just want to put this back
2 out there. It is a design review, which is a form of a special
3 exception. It is not a PUD where the Commission is balancing
4 public benefits against zoning relief and potential adverse
5 effects, so I wanted to make sure we continue to at least put
6 that on the record.

7 Anything else?

8 VICE CHAIRPERSON MILLER: One other thing, Mr. Chairman.
9 I think -- I can't remember if it was at the hearing, I guess it
10 was the hearing because this is a one vote case, right? Thank
11 you, Commissioner Turnbull. It's great to be able to see
12 everybody simultaneously. I mean, we can't do that on the dais,
13 which I am not looking forward to getting back to, so that's one
14 vote. Anyway.

15 What was I going to say? LEED, LEED, the LEED. We
16 asked for -- they were at the LEED Silver in their draft
17 scorecard. We asked them to try to get LEED Gold. They came
18 back with a revised scorecard that shows they're not even at LEED
19 Silver. And doesn't even meet, I think according to -- it might
20 not even be LEED building performance standards, so there might
21 be a problem with permitting. I guess since it's a design review,
22 I don't know. I don't know if we can require LEED -- minimum
23 LEED Silver. That was what we were requiring as a minimum in
24 PUD cases. This is not a PUD case design review. Maybe it's
25 just we need to just -- if we can require something, we should

1 require it and let OAG, and the applicant work on that in terms
2 of what the LEED requirement is. Otherwise, just for the record,
3 they should be striving for LEED Gold.

4 CHAIRPERSON HOOD: And thank you. Yeah, I would agree.
5 We would strongly encourage the applicant to strive for LEED
6 Gold. I'm not sure from a legal standpoint, but I think from
7 doing things right -- and you're right, from permitting -- well,
8 there may be some caveats to help them get to where they need to
9 be. So that may be something we can add to our long laundry list
10 of things that we are continuing to work on. That's an ever-
11 moving piece that is very fluid. That may be something we need
12 to bring up and maybe something we need to add so we can make
13 sure it's secure from our end. So point well taken and I am sure
14 that the applicant is listening, so we would strongly encourage
15 if it's doable.

16 COMMISSIONER TURNBULL: If we could amend our
17 regulations at some point on design review, I would highly
18 recommend that we set as a minimum LEED Silver, otherwise we're
19 not getting anything.

20 VICE CHAIRPERSON MILLER: So at least LEED equivalent
21 Silver, and I think -- we will let OAG and the applicant work on
22 this, but I think in design review cases, LEED is an appropriate
23 discussion --

24 COMMISSIONER TURNBULL: Yes, I would agree.

25 VICE CHAIRPERSON MILLER: -- consideration point and

1 maybe a condition point, but I will leave that to OAG and the
2 applicant.

3 CHAIRPERSON HOOD: Go ahead, Commissioner May, go ahead.

4 COMMISSIONER MAY: Yeah, I agree. The environmental
5 sustainability of the project is a consideration, I think in
6 design review cases, and so I think it is perfectly within our
7 authority to require that they meet LEED Silver and, you know,
8 at a minimum, and certainly we can encourage them to go for Gold,
9 but I think the requirement is there. And unless there's some
10 legal reason why we cannot require that within our regs, you
11 know, that's what I think should be in the decision.

12 CHAIRPERSON HOOD: I think we can flesh a lot of that
13 out. Because I think about the older buildings, I know sometimes
14 it's kind of hard, but those are kind of conversations we can
15 have at a later point. I'm not saying it's not doable.

16 Okay. Did somebody make a motion or would somebody
17 like to make a motion?

18 Commissioner Turnbull.

19 COMMISSIONER TURNBULL: Mr. Chair, I would move that
20 we take final action on design review zoning Case Number 20-32,
21 45 Q Street, 657 Southwest, LLC, at Square 657. I don't whether
22 I can condition that upon the applicant meeting LEED Silver or
23 LEED Silver equivalent, or that OAG can work with the applicant.

24 CHAIRPERSON HOOD: Commissioner Turnbull, I'll just a
25 suggestion that we strongly encourage right now because we don't

1 have any legal ramifications of what we -- I think you can say
2 "strongly encourage" in your motion.

3 COMMISSIONER TURNBULL: Okay. I strongly encourage OAG
4 to work. So, I look for a second.

5 COMMISSIONER MAY: Second.

6 CHAIRPERSON HOOD: It's been moved and properly second.
7 Any further discussion?

8 (Negative head shake.)

9 CHAIRPERSON HOOD: No further discussion. Ms.
10 Schellin, would you do a roll call vote, please?

11 MS. SCHELLIN: Commissioner Turnbull.

12 COMMISSIONER TURNBULL: Yes.

13 MS. SCHELLIN: Commissioner Miller.

14 COMMISSIONER MILLER: Yes.

15 MS. SCHELLIN: Commissioner Hood.

16 CHAIRPERSON HOOD: Yes.

17 MS. SCHELLIN: Commissioner May.

18 COMMISSIONER MAY: Yes.

19 MS. SCHELLIN: Commissioner Shapiro.

20 COMMISSIONER SHAPIRO: Yes.

21 MS. SCHELLIN: The vote is 5-0-0 to approve final action
22 in Zoning Commission Case Number 20-32.

23 CHAIRPERSON HOOD: Okay. The next case is Zoning
24 Commission Case Number 20-08, Howard University, 2020-2030 Campus
25 Plan, Central Campus. Ms. Schellin.

1 MS. SCHELLIN: Yes, sir. At Exhibits 45 and 47, you
2 have the applicant's post hearing submission, and I'm not sure
3 of what the latest exhibit is, but this afternoon, the applicant
4 asked the record be reopened to accept a memo, a transportation
5 memo from Gorove Slade that was requested from DDOT that
6 incorporated their TDM measures, along with what DDOT had asked
7 for all in one document and they did submit that. I'm just not
8 sure what that exhibit number is because it was done later in
9 the afternoon. So that is before you for consideration of final
10 action. And I'll leave the discussion to you guys.

11 CHAIRPERSON HOOD: Okay. Thank you, Ms. Schellin.

12 Commissioners, let me open it up. I do know that a lot of
13 the recommendations -- I mean the conditions, the maximum number
14 of parking spaces, the implemented TDM plan and the prior -- you
15 know, other things that have been asked for. I know there is
16 also continued coordination with DDOT stated on the final
17 language of the conditions included in whatever draft, but I
18 believe that may have been some of what was supplied today
19 hopefully; if not, we will continue to let them work with OAG on
20 that. But let me open it up. Any questions and comments? Vice
21 Chair Miller?

22 COMMISSIONER MILLER: Thank you, Mr. Chairman, I just
23 wanted to thank the applicant, Howard University, for providing
24 information in the record in response to my question regarding
25 the status of the university's affordable housing target on off-

1 campus, I think it's off-campus sites that they control and as
2 well as compliance with conditions in the 2011 Campus Order,
3 that's the exhibit we have, that I don't have in front of me
4 right at the moment, but we have that. But I appreciate their
5 response.

6 CHAIRPERSON HOOD: Okay. Any other questions or comments
7 on the Howard U Campus Plan? I will just state, unless I hear
8 other comments, I think the legal test for us in the Campus Plan
9 evaluation standard under Subtitle X, 101.1, the campus plans are
10 evaluated as special exceptions with the primary concern being
11 the impacts of the surrounding community. I believe with all
12 included through this whole hearing process and what's been by
13 the applicant and the community, as stated, the usage shall be
14 located so that they are not likely to become objectionable to
15 neighboring property because of noise, traffic, parking, number
16 of students, and other objectionable conditions. I believe in
17 this particular campus plan, that the applicant has shown that
18 and along with mitigating any adverse impacts that may be there,
19 I believe that they have done that in this case. And I think
20 this case, this campus plan was -- at first, it was one night, I
21 believe, and I think this actually went very well.

22 And I also want to thank the president, Dr. Frederick,
23 for explaining to me what "HU, you know," means, so I wanted to
24 just put that out there.

25 So any other final questions or comments? So, with

1 that, I would move that we approve Zoning Commission Case Number
2 20-08 with everything that has been said, and also the conditions
3 that have been accepted and any other recommendations that have
4 been given to this campus plan from 2020 to 2030, campus plan
5 for the Central Campus, and ask for a second.

6 COMMISSIONER MILLER: Second.

7 CHAIRPERSON HOOD: It's been moved and probably second.

8 Any further discussion?

9 Hearing none, Ms. Schellin, would you do a roll call
10 vote, please?

11 MS. SCHELLIN: Commissioner Hood.

12 CHAIRPERSON HOOD: Yes.

13 MS. SCHELLIN: Commissioner Miller.

14 VICE CHAIRPERSON MILLER: Yes.

15 MS. SCHELLIN: Commissioner May.

16 COMMISSIONER MAY: Yes.

17 MS. SCHELLIN: Commissioner Shapiro.

18 COMMISSIONER SHAPIRO: Yes.

19 MS. SCHELLIN: Commissioner Turnbull.

20 COMMISSIONER TURNBULL: Yes.

21 MS. SCHELLIN: The vote is 5-0-0 to approve final action
22 in Zoning Commission Case Number 20-08.

23 CHAIRPERSON HOOD: Ms. Schellin, I have to pause here
24 and give you a compliment. You never tell me to slow down. If
25 I don't give you time to finish the last case, you never say

1 anything, you just tell me to -- you just keep right on going
2 with the flow. So I just want to know, if you need me to slow
3 down some, let me know. And I'm being --

4 MS. SCHELLIN: I'm good.

5 CHAIRPERSON HOOD: I'm being nice for what I said
6 earlier when I blamed you for --

7 MS. SCHELLIN: That's okay.

8 CHAIRPERSON HOOD: Anyway. Let's do time extensions
9 in Zoning Commission Case Number 06-14G, Washington Gateway
10 Three, LLC and MRP Realty, two-year PUD time extension in Square
11 3584. Ms. Schellin.

12 MS. SCHELLIN: Yes. In this case, the applicant is
13 requesting a two-year time extension starting -- stating I'm
14 sorry, "The need is due to the inability to get financing due to
15 uncertainty and instability of the market due to the COVID
16 pandemic, as stated earlier, with the consent calendar item, this
17 case goes hand in hand with the modification of consequence
18 request earlier. They need the time extension in order to move
19 forward with the modification of consequence. I know that
20 typically they're done at the same time, but after consultation
21 with OAG, Ms. Cain, this situation is a little bit different in
22 that they need the time extension before going forward with the
23 modification of consequence. So if the Commission would consider
24 the time extension this evening, that would be great.

25 CHAIRPERSON HOOD: Okay. I think we're still in order,

1 unless I'm mistaken, we still have to waive Subtitle Z, 705.5,
2 pursuant to 101.9 which we would need to waive, because I think
3 this is a third extension request. So, I would just ask, any
4 objections? Okay. Certainly. No objections.

5 COMMISSIONER SHAPIRO: Chairman Hood.

6 CHAIRPERSON HOOD: Yes.

7 COMMISSIONER SHAPIRO: Yes, I just want to make sure
8 that there's an actual waiver request in for Z 705.5.

9 CHAIRPERSON HOOD: Ms. Schellin, do you know?

10 MS. SCHELLIN: They did not actually make the request,
11 but OAG, I believe, recommended that the Commission, on their
12 own, go ahead and grant that waiver, I believe.

13 MS. CAIN: Yes, the Commission can do on its motion
14 without the weight of the applicant.

15 COMMISSIONER SHAPIRO: Thank you.

16 CHAIRPERSON HOOD: But I want to strongly encourage the
17 applicant, next time, seeing it is a waiver request, we will do
18 it on our own this time. All right. Again, any objections to
19 the waiver? I don't think I need to do a vote on that.

20 (Negative head shake.)

21 CHAIRPERSON HOOD: Okay. No objections to the waiver.
22 Any comments on the extension request?

23 COMMISSIONER TURNBULL: I think it's totally reasonable,
24 Mr. Chair.

25 CHAIRPERSON HOOD: Okay, I like that. Would somebody

1 like to make a motion to the totally reasonable request.

2 COMMISSIONER TURNBULL: Mr. Chair, I'd love to. Mr.
3 Chair --

4 All right. Commissioner May, would you like to go
5 ahead?

6 COMMISSIONER MAY: I keep trying -- no.

7 I would move that the Zoning Commission approve Zoning
8 Commission Case 06-14G, Washington Gateway Three, LLC and MRP
9 Realty, two-year time extension at Square 3584.

10 COMMISSIONER TURNBULL: I'd love to second it.

11 CHAIRPERSON HOOD: Okay. It's been moved and probably
12 second. Any further discussion?

13 COMMISSIONER SHAPIRO: Mr. Chair, under discussion, do
14 we need to vote on the waiver request separately from what we're
15 about to do?

16 CHAIRPERSON HOOD: No. When I asked for the general
17 consensus, no.

18 COMMISSIONER SHAPIRO: Thank you, Mr. Chair.

19 CHAIRPERSON HOOD: I wanted to say, if there are any
20 problems, raise your hand. I kind of like when Fred does that;
21 raise your hand. All right. It has been moved and properly
22 second. Any further discussion?

23 (Negative head shake.)

24 CHAIRPERSON HOOD: Ms. Schellin, would you do a roll
25 call vote, please?

1 MS. SCHELLIN: Commissioner May.

2 COMMISSIONER MAY: Yes.

3 MS. SCHELLIN: Commissioner Turnbull.

4 COMMISSIONER TURNBULL: Yes.

5 MS. SCHELLIN: Commissioner Hood.

6 CHAIRPERSON HOOD: Yes.

7 MS. SCHELLIN: Commissioner Miller.

8 COMMISSIONER MILLER: Yes.

9 MS. SCHELLIN: Commissioner Shapiro.

10 COMMISSIONER SHAPIRO: Yes.

11 MS. SCHELLIN: The vote is 5-0-0 to grant the waiver
12 request for the third time extension and also to approve the time
13 extension request.

14 CHAIRPERSON HOOD: Okay. Next, let's go to hearing
15 action. Zoning Commission Case Number 15-31B. This is 1701 H
16 Street Washington, LLC, PUD modification of significance at
17 Square 4507. Ms. Fothergill.

18 MS. FOTHERGILL: Good afternoon, Chairman Hood and
19 members of the Commission. I'm Anne Fothergill for the Office
20 of Planning for Zoning Commission Case 15-31B.

21 1701 H Street Washington, LLC is requesting a
22 modification of significance to the approved consolidated PUD for
23 the property located at 1701 H Street Northeast, at the
24 intersection of Benning Road, H Street and 17th Street Northeast.
25 The Office of Planning finds that the proposed modification to

1 add ten additional units in a partial new floor would generally
2 not be inconsistent with the maps and written elements of the
3 comprehensive plan and recommends that the application be set
4 down for a public hearing. The Zoning Commission recently
5 approved a modification of consequence for a revision to this
6 building's balconies in Case 15-31A, and the Zoning Commission
7 also recently approved a map amendment, Case 19-30 for the
8 properties located immediately to the east of the subject
9 property along Benning Road to be rezoned from the RA-2 zone to
10 the MU-5A zone.

11 In this modification, the applicant proposes to add an
12 additional story to the eastern end of the building. The Eastern
13 wing along Benning Road would have seven stories and be 74 feet,
14 7 inches tall, which would be 9 feet and 7 inches taller than
15 approved in the PUD. This additional story would add ten
16 residential units to the 180 unit building for a total of 190
17 units. Four of these ten new units will be affordable housing
18 units at 50 percent MFI. Two of the affordable units would be
19 two-bedroom units and eight of the ten units would have balconies.
20 The applicant is requesting flexibility from the FAR requirement
21 of the zone for this additional GFA. The approved PUD had an
22 FAR of 6.0, and this addition would add 2,700 square feet over
23 the allowable GFA, and the applicant is requesting that the Zoning
24 Commission approve a four percent increase in the building
25 density for an FAR of 6.1. Under Subtitle X, Section 303.10(b),

1 the Zoning Commission may allow an FAR increase if the applicant
2 demonstrates that the proposed additional density is essential
3 to the successful functioning of the project. The applicant also
4 requests relief from three additional parking spaces that are
5 required under the 1958 regulations. In terms of the
6 comprehensive plan, the future land use map designation for the
7 property is straight medium density partial and medium density
8 residential. As part of the PUD approval, the property was
9 rezoned to the C2B zone and the project was found to be not
10 inconsistent with the FLUM. The proposed additional story in
11 height of the eastern wing, 74 feet, 7 inches, would be in keeping
12 with the FLUM designation and within the maximum height allowed
13 in the C2B zone; however, the additional FAR would require zoning
14 flexibility. Overall, the proposal is not inconsistent with the
15 comprehensive plan maps, (audio interference) housing and urban
16 design elements, the upper northeast area element and the Benning
17 Road Corridor Redevelopment Framework, which encourages mixed use
18 development in this location. If set down, OP recommends that
19 the applicant provide a shadow study prior to the public hearing
20 showing potential impacts of the additional building height on
21 neighboring buildings. And that concludes my presentation and
22 I'm happy to take any questions.

23 CHAIRPERSON HOOD: Thank you, Ms. Fothergill. Let's
24 see if we have any questions or comments. Commissioner May, any
25 questions or comments?

1 COMMISSIONER MAY: (Negative head shake.)

2 CHAIRPERSON HOOD: Commissioner Shapiro?

3 COMMISSIONER SHAPIRO: (Negative head shake.)

4 CHAIRPERSON HOOD: Commissioner Turnbull?

5 COMMISSIONER TURNBULL: None, Mr. Chair.

6 CHAIRPERSON HOOD: And Vice Chair Miller?

7 VICE CHAIR MILLER: No questions, Mr. Chairman, but
8 thank you, Ms. Fothergill for your report.

9 And I think it's commendable that the additional ten
10 units result in more inclusionary zoning at deeper levels than
11 what might be otherwise required. And with the two-bedroom units
12 thrown into the mix, I'm looking forward to seeing more
13 information at the hearing, but that's a good thing in general.

14 CHAIRPERSON HOOD: Thank you as well, Ms. Fothergill.
15 And with no questions from any of us, the report was well done,
16 and we are looking forward to the hearing. It sounds like we
17 are going to set this down (audio interference). Thank you. I
18 appreciate all your work.

19 Let's see if we can get a motion from somebody. I like
20 for different people to participate. So who would like to make
21 a motion? Who hasn't made a motion tonight, raise your hand?
22 No, I'm just kidding. Whoever would like to make a motion to
23 set this down.

24 VICE CHAIR MILLER: Chairman Hill -- I would move that
25 the Zoning Commission set down for a public hearing, Case Number

1 15-31B, 1701 H Street Washington, LLC, PUD modification of
2 significance at Square 4507, and ask for a second.

3 COMMISSIONER SHAPIRO: Second.

4 CHAIRPERSON HOOD: Okay. It has been moved and properly
5 second. Any further discussion?

6 (Negative head shake.)

7 CHAIRPERSON HOOD: Ms. Schellin, would you do a roll
8 call vote, please?

9 MS. SCHELLIN: Commissioner Miller.

10 COMMISSIONER MILLER: Yes.

11 MS. SCHELLIN: Commissioner Shapiro.

12 COMMISSIONER SHAPIRO: Yes.

13 MS. SCHELLIN: Commissioner Hood.

14 CHAIRPERSON HOOD: Yes.

15 MS. SCHELLIN: Commissioner May.

16 COMMISSIONER MAY: Yes.

17 MS. SCHELLIN: And Commissioner Turnbull.

18 COMMISSIONER TURNBULL: Yes.

19 MS. SCHELLIN: The vote is 5-0-0 to set down Zoning
20 Commission Case Number 15-31B as a contested case.

21 CHAIRPERSON HOOD: So I'm just going to say if anybody
22 who is watching this hearing thinks that I'm not going to call
23 Chairman Hill right after this is over and tell him I was making
24 fun of him, I just want you all to know, I am going to do it, so
25 you don't have to tell him, I'm going to.

1 All right. Let's move to the next case. Got to have
2 some fun sometime.

3 All right. I think our next is correspondence, right,
4 Ms. Schellin?

5 MS. SCHELLIN: (Affirmative head nod.)

6 CHAIRPERSON HILL: Okay. Correspondence, Ms. Schellin.

7 MS. SCHELLIN: Yes, sir. Initially, we received a
8 letter from SMD Commissioner 6C04, Mark Eckenwiler; however,
9 today, we received a letter from ANC 6C advising that they voted
10 to adopt his comments as the full ANC's comments. And it's
11 regarding the ZA's interpretation of Subtitle E, Section 206.1.
12 It's with regard to the rooftop elements, and they are asking the
13 Commission to take action in response to their comments.

14 CHAIRPERSON HOOD: Okay. Thank you, Ms. Schellin. As
15 we all know, ANC 6C along with other ANCs across the city work
16 very hard in cases pertaining to zoning. I will -- let me open
17 it to hear from others, a path forward. I think this warrants
18 at least some investigation or some analysis or some
19 clarification. Let me open it up to others. Commissioner May.

20 COMMISSIONER MAY: So I can't say that I completely
21 agree with what Commissioner Eckenwiler has suggested will be the
22 outcomes in the future, but I do agree that there is some
23 confusion about this, and I think there's some areas where it
24 would be beneficial for us to have some greater clarity about
25 what constitutes a rooftop feature that needs to be preserved

1 under our regulations. And, you know, maybe we include things
2 like codifying the setback that the zoning administrator has made
3 a determination about or maybe not, I'm not sure about that one
4 in particular, but I think a little bit more clarity probably is
5 useful. But I'm interested in hearing what others have to say.

6 CHAIRPERSON HOOD: Okay, Commissioner Shapiro.

7 COMMISSIONER SHAPIRO: Yeah, Mr. Chair, I have no
8 concerns taking this up. We would take this up as a potential
9 text amendment, is that the idea?

10 COMMISSIONER MAY: I think we have to request that from
11 the Office of Planning.

12 CHAIRPERSON HOOD: Okay. Commissioner Turnbull?

13 COMMISSIONER TURNBULL: I would agree with Commissioner
14 May and Commissioner Shapiro. I've been on some BZA work in the
15 last month or so where we had a situation come up which involved
16 a cornice or crown molding or an architectural element that's
17 close to the roof and the interpretation of the setback. I think
18 Commissioner May is right. I think we need some clarity, some
19 more definition as to what a rooftop element is, especially in
20 its adjacency to the vertical wall that is next to -- a lot of
21 these things get to be very complicated. And if you simply throw
22 out a word, it may not cover exactly what the intent is of what
23 you're really looking at. So I think we need to carefully or
24 somehow very -- we need to clearly analyze what we're looking at.
25 And I'm looking at the pictures that Commissioner Eckenwiler had

1 and some of these things are very fuzzy and you can get into some
2 really -- there's room to argue about what it is, I understand
3 that, but I think we do need the clarity because it can be
4 confusing for -- especially the BZA members to look at something
5 and understand exactly what it is. So I think the more clarity,
6 the better.

7 CHAIRPERSON HOOD: Okay. Vice Chair Miller. Ms.
8 Schellin raised her hand.

9 VICE CHAIRPERSON MILLER: Ms. Schellin can speak, if
10 she wants.

11 MS. SCHELLIN: I thought you were finished.

12 CHAIRPERSON HOOD: Vice Chair Miller.

13 VICE CHAIRPERSON MILLER: Thank you, Mr. Chairman. Yes,
14 I agree, clarity is always a useful thing to try to do. And so
15 I think what we're -- correct me if I'm wrong, I think what we're
16 collectively asking in response to the letter is for the Office
17 of Planning to look at the issue and analyze what clarity there
18 should be and maybe -- and perhaps propose a text amendment that
19 codifies what the zoning administrator is interpreting or changes
20 it to clarify it further. I think there are a number of zoning
21 administrator interpretations in a number of areas which might
22 fall into this broad category of things that need -- that the
23 Office of Planning may need to look at in terms of possible text
24 amendments to actually put --codify, as Mr. Turnbull or others
25 have said, in our regulations, what the interpretation is going

1 forward. If we agree with it and the Office of Planning thinks
2 it makes sense. So I think we're calling on the OP -- correct
3 me if I'm wrong, Mr. Chairman, to look at the issue that Mr.
4 Eckenwiler has raised and propose any changes or clarifications
5 that might be appropriate.

6 CHAIRPERSON HOOD: Okay. Thank you. And this would
7 not go with the text amendment -- would not apply to the text
8 amendment (audio interference) to the case that Mr. Eckenwiler
9 had mentioned in his letter, but this is something -- this is
10 separate and apart, but I will say I'm not really sure of the
11 process. I know we're sending it to OP, and I know Mr. Eckenwiler
12 has a way of -- he knows, I guess how to -- I just want to make
13 sure he is in the process, so his viewpoint is presented as well.
14 I know that Zoning -- ZA will be in the process. I want to make
15 sure since he and ANC 6C -- and then whatever they bring, so I'm
16 asking that, that they also be included in that discussion if
17 there's going to be a discussion, which I am sure there will be,
18 because when I look at what he submitted, I kind of -- I think I
19 fully understand it and I kind of agree with what he is saying,
20 but I need some more to help me get to where I need to be. All
21 right.

22 COMMISSIONER MAY: I think we're pretty much guaranteed
23 that Commissioner Eckenwiler is going to jump into the discussion
24 with the Office of Planning very quickly.

25 CHAIRPERSON HOOD: Okay. I just wanted to make sure

1 that there was a way that he could -- because if there is not a
2 hearing, I just wanted to make sure he had an avenue to be able
3 to -- get his point across as well. So hopefully that'll all
4 work out. I'm sure it will, but I just wanted to put that on
5 the record.

6 COMMISSIONER MAY: Mr. Chairman.

7 CHAIRPERSON HOOD: Yes, Commissioner May.

8 COMMISSIONER MAY: I am going to add one other thing.
9 I mean, if we're going to ask the Office of Planning to look at
10 this particular set of regulations, there is one other thing that
11 has popped up recently for me that I would love to sort of throw
12 into the mix of things that they're thinking about, which is one
13 of those unintended consequences. Right? And it has to do with
14 the use of parapet walls between rowhouses that has become a tool
15 for builders, developers to avoid doing required setbacks for
16 certain rooftop structures, including rails, guardrails. And I'm
17 not sure what the solution is, and I'm not necessarily sure that
18 what's happening is really that bad, except that sometimes you
19 wind up with these very high, I mean, you know, four-foot-high
20 parapet walls sticking out on these buildings in the front or the
21 back so that they can avoid those setback requirements. So I
22 think that's something that I would love to have the Office of
23 Planning look at as well to see if there is some better way to
24 do that.

25 CHAIRPERSON HOOD: Okay. Ms. Schellin, could you

1 convey that? I'm sure that they're probably listening, but if
2 you could convey that to them.

3 COMMISSIONER MAY: I think they're all here, yes.

4 MS. SCHELLIN: Yes, they are. And that's what I was
5 going to say when I thought you guys were already done, that I
6 received a message from Ms. Steingasser that said, "We hear the
7 ZC and will review the rooftop regs," so I am sure that they have
8 also heard Commissioner May's concern and they will take a look
9 at the parapet walls also that are of concern.

10 CHAIRPERSON HOOD: Okay. Great.

11 Commissioner Turnbull.

12 COMMISSIONER TURNBULL: I just wanted to follow up on
13 Commissioner May. Commissioner May have you found, I've seen it
14 too on several R-1 zones, RF-1 where -- do you find it more often
15 misused in the front of the building, or do you find it just
16 on the sides?

17 COMMISSIONER MAY: I have seen it primarily on the --
18 where it shows up to me and it looks really odd is where it's on
19 the -- it's on the sidewalls, the dividing walls between the
20 rowhouses. I will say, though, that one of the things that's
21 also troubling is that we can have apparently under our
22 regulations where we say, you know, it's -- the height is capped
23 at 35 feet. The zoning administrator says that, well, above the
24 35 feet, you can actually have that parapet wall at the front.
25 So you wind up with a 39-foot building or at least what looks

1 like a 39-foot building. I think that's a component of it as
2 well, because I'm not sure that having that parapet wall above
3 the 35 feet is an acceptable outcome because it sort of subverts
4 the intention of what we are doing. So I'm glad you brought that
5 up, because I was thinking about the sides, but the issue at the
6 front, okay.

7 COMMISSIONER MAY: Mr. Chair, you're muted.

8 CHAIRPERSON HOOD: I don't even feel like saying that
9 all over again. Anyway -- what I said, I think we've got a plan
10 going forward. Anything else, Commissioners?

11 Ms. Schellin, is there anything else on the agenda?

12 MS. SCHELLIN: There is nothing else.

13 CHAIRPERSON HOOD: Okay. So I want to thank everybody
14 for their -- I particularly want to thank our staff and everybody
15 who has helped us and even the residents who participate. I
16 think we've met three times this week, and I particularly want
17 to thank the Commissioners and everybody for everything that has
18 been put into this week.

19 Our next meeting -- and I'm not sure who --

20 COMMISSIONER SHAPIRO: Mr. Chair, do you have any final
21 words for BZA Chair Hill before we go?

22 COMMISSIONER HOOD: (Negative head shake.)

23 COMMISSIONER SHAPIRO: No?

24 COMMISSIONER HOOD: I know I got to call him before you
25 all tell him now.

1 Again, we also mentioned about Ms. Hanasack (phonetic),
2 who retired, I think on the 26th. I think the comments that we
3 said at the meeting about how she has really helped us, even
4 though a lot of times she would fill when Ms. Schellin may have
5 been out, but Ms. Schellin is not normally out, maybe once or
6 twice, and all the work she has done. We expressed our gratitude,
7 and we wish her well in her future endeavors. So we mentioned
8 all that, I think unless others want to opine again on that,
9 we'll just leave it at that, but I just wanted to say it at the
10 meeting as well.

11 And I know I need to call Cherry Hill before
12 Commissioner Shapiro talks to him.

13 But anyway, we meet again on May 3rd. It is Zoning
14 Commission Case Number 20-24, I think it is a map amendment by
15 the Office of Planning. But anyway, we'll get on the same web
16 platforms. So tune in at 4 o'clock on May 3rd, which I believe
17 is Monday.

18 MS. SCHELLIN: Yes.

19 CHAIRPERSON HOOD: Anything else, anybody?

20 MS. SCHELLIN: That's it.

21 CHAIRPERSON HOOD. With that, I want to thank everybody
22 again, and have a nice evening and have a great weekend. This
23 meeting is adjourned.

24 (Whereupon, the above-entitled matter went off the
25 record at 4:52 p.m.)

C E R T I F I C A T E

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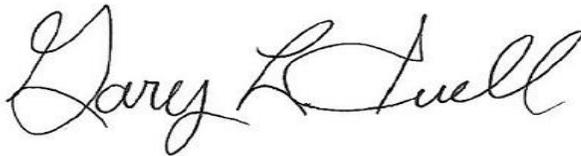
In the matter of: Public Meeting

Before: DCZC

Date: 04-29-21

Place: Teleconference

was duly recorded and accurately transcribed under my
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GARY EUELL