

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC MEETING

+ + + + +

WEDNESDAY

DECEMBER 6, 2023

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
LORNA L. JOHN, Vice-Chairperson
CHRISHAUN S. SMITH, NCPC Designee

ZONING COMMISSION MEMBERS PRESENT:

JOSEPH S. IMAMURA, PhD, AOC Designee
TAMMY STIDHAM, NPS Designee

OFFICE OF ZONING STAFF PRESENT:

MARK HAMALA, Zoning Specialist

OFFICE OF PLANNING STAFF PRESENT:

SHEPARD BEAMON
MAXINE BROWN-ROBERTS
JONATHAN KIRSCHENBAUM
KAREN THOMAS

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OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

SARAH BAJAJ, ESQ.
CARISSA DEMARE, ESQ.
RYAN NICHOLAS, ESQ.

The transcript constitutes the minutes from
the Regular Public Meeting held on December 6, 2023.

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

9:40 a.m.

CHAIRPERSON HILL: Good morning, ladies and gentleman, to the Board of Zoning Adjustment. Today's date is December 6, 2023. This hearing will please come to order. My name is Fred Hill, Chairperson of the District of Columbia Board of Zoning Adjustment. Joining me today are Vice Chair Lorna John, Board member Chrishaun Smith, and Zoning Commissioners Dr. Joe Imamura and Tammy Stidham.

Today's meeting and hearing agenda are available on the Office of Zoning's website. Please be advised that this proceeding is being recorded by a court reporter, and is also webcast live via Webex on YouTube Live. The video webcast will be available on the Office of Zoning website after today's hearing.

Accordingly, everyone who is listening via Webex or by telephone will be muted during the hearing. Also, please be advised that we do not take any public testimony at our decision meeting sessions. If you are experiencing difficulty accessing Webex or with your telephone call-in, then please call our OZ hotline 202-727-5471 to receive Webex call-in or instructions.

At the conclusion of this meeting session in consultation with the Office of Zoning to determine whether a full or summary order may be issued. A full order is

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

5 Although the Board favors using summary orders
6 when possible, an applicant may not require the Board to
7 issue such orders. In today's hearing session, everyone who
8 is listening on Webex or by telephone will be muted during
9 the meeting. Only persons who have signed up to participate
10 or testify will be unmuted at the appropriate time.

11 Please state your name and home address before
12 providing oral testimony or your presentations. Oral
13 presentations will be limited to a summary of your most
14 important points. When you are finished speaking, please
15 mute your audio so that your microphone is not picking up the
16 sound or background noise.

17 All persons planning to testify either in favor
18 or in opposition should have signed up in advance. You will
19 be called by name to testify. If this is an appeal, the only
20 parties that are allowed to testify. By signing up to
21 testify, all participants must take the oath or affirmation
22 as required by Subtitle Y 408.7.

23 Request to enter evidence at the time of an online
24 virtual hearing such as written testimony or additional
25 supporting documents other than live video which may not be

1 presented as part of the testimony may be allowed pursuant
2 to Subtitle Y 103.13 provided that the person making the
3 request to enter an exhibit explains: A) how the proposed
4 exhibit is relevant, B) the good cause it justifies allowing
5 the exhibit into the record, including an explanation of why
6 the requestor did not submit it prior to the hearing pursuant
7 to Subtitle Y, Section 206, and how the proposed exhibits
8 would not unreasonably prejudice any party. The order of
9 procedure for special exceptions and variances are in Y 409.

10 At the conclusion of each case, an individual who
11 is unable to testify because of technical issues may file a
12 request for leave to file a written version of the planning
13 testimony to the record within 24 hours following the
14 conclusion of public testimony in the hearing.

15 If additional written testimony is accepted, then
16 parties will be allowed a reasonable time to respond as
17 determined by the Board. The Board will then make its
18 decision at its next meeting session but no earlier than 48
19 hours after the hearing.

20 Moreover, the Board may request additional
21 specific information to complete the record. The Board and
22 the staff will specify at the end of the hearing exactly what
23 is expected and the date when persons must submit the
24 evidence to the Office of Zoning. No further information
25 shall be accepted by the Board.

1 Finally, the District of Columbia Administrative
2 Procedures Act request that a public hearing on each case be
3 held in the open before the public. However, pursuant to
4 Sections 405(b) and 406 of that act, the Board may be
5 consistent with its rules and procedures in the act, enter
6 into a closed meeting on a case for purposes of seeking legal
7 counsel on a case pursuant to D.C. Office Code Section 2-
8 575(b)(4), and/or deliberating on a case pursuant to D.C.
9 official Section 2-575(b)(13), but only after providing the
10 necessary public notice in the case of an emergency closed
11 meeting after taking a roll call.

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

13 MR. HAMALA: Good morning, Chairman Hill and the
14 Board. We do have a few scheduling announcements. First is
15 Application No. 20919 of William Huffman and Colleen Bevinus
16 has been rescheduled to the December 13th public hearing.

17 Application No. 20928 of Matthew and Sarah Tucker
18 has also been rescheduled to the December 13th public
19 hearing.

20 Application No. 20996 of 106 15th Street, LLC, has
21 been postponed to the January 31, 2024 hearing. Then for
22 Application No. 20996, we have also allowed a late filing
23 from Council Member Charles Allen for the record. That case
24 is on our docket today. That's my mistake.

25 Any other preliminary matters we can call when we

1 call any of those cases.

2 CHAIRPERSON HILL: Okay, great. Thank you. So
3 I do appreciate that Dr. Imamura is with us for the first
4 couple of cases. Then Commissioner Stidham is going to join
5 us after that.

6 If you want to call our first decision case, Mr.
7 Hamala.

8 MR. HAMALA: Our first case before the Board is
9 Application No. 20962 of Personable.com, Inc. This is a
10 self-certified application pursuant to Subtitle X 901.2 for
11 a special exception under Subtitle C 301.5 to allow three
12 detached principal dwellings on one regular lot in a
13 theoretical subdivision located at 1840 Primrose Road, NW,
14 Square PAR 0078, Lot 58 in the R-1-A zone.

15 CHAIRPERSON HILL: Okay. So we had this hearing
16 completed on November 1st. On the hearing was Hill, John,
17 Smith, and Dr. Imamura. There was party status granted to
18 Lara Wagner and we had asked for some additional submissions
19 and information concerning the drive aisle with the landscape
20 buffers, the location of trees on the property near Rock
21 Creek Park, the existing driveway plan, and then public
22 outreach and evidence of such to 2268 Sudbury Road NW.

23 I went back and looked at all the filings and I
24 did see in particular what I was interested in. The 2268
25 Sudbury Road Metro Homes did not indicate any objection to

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1 the project as per the applicant's statement in Exhibit 37.
2 I also thought that at the time I was comfortable with the
3 information the Office of Planning had provided us, which was
4 in support of the application.

5 And then also the burden of proof and the argument
6 that the applicant had been forward as to why they are
7 meeting the criteria for us to grant the relief requested.
8 I also was happy to see the additional information concerning
9 the landscape buffers because I thought that was quite
10 helpful.

11 I thought that actually the party in opposition
12 was really kind of back in the area of the existing home that
13 was going to be there and I didn't think there was really a
14 lot of disturbance, due to that existing home already being
15 there in terms of any kind of visual intrusion. However, I
16 was happy to see again about the additional landscaping plan,
17 and then also the reference to those trees in Rock Creek
18 Park. So all that being said, I would be in favor of this
19 application and would be voting to approve.

20 Mr. Smith, do you have anything you would like to
21 add?

22 MEMBER SMITH: Chairman Hill, I agree with your
23 particular assessment of this case. I think some of the
24 basic concerns was regarding the landscape buffer and the
25 treatment of the drive aisle. I'm happy to see that the

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1 applicant has provided substantially more buffering between
2 the existing houses near that front on Sudbury -- attempting
3 to recreate the park-like setting that exist now. Kudos to
4 the applicant for attempting to recreate that atmosphere and
5 listening to some of the concerns we heard at the previous
6 hearing on November 1st.

7 Some of the other concerns that was raised by the
8 applicant regarding the drive aisle and runoff from the drive
9 aisle; we've heard these concerns before but that's not a
10 concern that the BZA can address. That is not a zoning
11 issue.

12 That's more of an issue when it's time to pull a
13 grading permit when they are regrading the lane and they have
14 to -- and the engineers have to show how the grading would
15 not affect our drainage patterns on the adjacent properties
16 before a building permit will be issued. That is more of a
17 concern at building permit level with the Department of
18 Building.

19 The parties in opposition, or the residents that
20 are concerned about those particular items, they do have
21 recourse to get additional information to ensure that their
22 concerns are addressed in that regard. With that, I do
23 believe that the applicant has met the burden the proof for
24 us to grant the relief requested. I will be in support of
25 the request.

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1 CHAIRPERSON HILL: Thank you.

2 Dr. Imamura.

3 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.
4 I'm in agreement and align myself with Board Member Smith and
5 your remarks. I don't think I have much more to add. I did
6 take a look at the additional documents in the record and I'm
7 satisfied with the resolution for the drive aisle and the
8 regrading that they did.

9 I would add to build off of Board Member Smith's
10 comment about runoff and storm water management. The fact
11 that only half of the drive aisle is paved and the other half
12 is sort of turf block will also help with percolation and
13 storm water runoff there.

14 I know the concerns with the party in opposition
15 is also due to the root zones for the trees that are in Rock
16 Creek that abut the property. I took a look at that as well
17 and I'm satisfied that there is enough distance. I don't
18 think the disturbance will actually be such that it will have
19 a negative impact on the trees in Rock Creek. That was
20 certainly something I was concerned about but I appreciate
21 the applicant going the additional mile to provide that tree
22 study.

23 With that, I think I'm prepared to vote in support
24 and I think the record is complete and full.

25 CHAIRPERSON HILL: Thank you, Dr. Imamura.

1 Okay. I don't have anything in addition to add.
2 I guess Vice Chair John was not on this case with us as I had
3 originally thought. I'm going to make a motion to approve
4 Application 20962 as captioned and read by the Secretary and
5 ask for a second, Mr. Smith.

6 MEMBER SMITH: Second.

7 CHAIRPERSON HILL: The motion has been made and
8 seconded. Take a roll call, Mr. Hamala.

9 MR. HAMALA: When I call your name, if you could
10 please respond to Mr. Hill's motion to approve this
11 application.

12 Dr. Imamura.

13 COMMISSIONER IMAMURA: Yes.

14 MR. HAMALA: Mr. Smith.

15 MEMBER SMITH: Yes, Mr. Hamala.

16 MR. HAMALA: Chairman Hill.

17 CHAIRPERSON HILL: Yes, Mr. Hamala. Thank you,
18 Mr. Smith. I've been trying to figure that out. Okay,
19 great. Thank you, Mr. Hamala.

20 MR. HAMALA: The staff would record the vote as
21 3-0-2 to approve this application with the motion made by Mr.
22 Hill, seconded by Mr. Smith, and with Dr. Imamura in support.

23 CHAIRPERSON HILL: Okay. Great. So, Mr. Hamala,
24 I guess we have -- I had asked Dr. Imamura to be on our next
25 case with us because he was an architect, or is an architect,

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1 but I guess there is also some preliminary matters we might
2 have to work through for Case No. 20853. If we could do
3 20853 next, and I know there is something coming up where we
4 need a translator. I think we should be in the window for
5 the translator so let's go ahead and call 20853, please.

6 (Whereupon, the above-entitled matter went off the
7 record at 9:54 a.m. and resumed at 10:06 a.m.)

8 MR. HAMALA: Back to the public meeting work. The
9 next application is No. 19897-C of Coloma River Capital.
10 This is a request pursuant to Subtitle Y, Section 703 for
11 Modification of Consequence from Board of Zoning Adjustment
12 Order 19897, effective date March 14, 2019. This was to
13 construct an additional unit to a 46-unit apartment house
14 with ground floor retail in the MU-4 zone at 5501 1st Street
15 NW, Square 3389, Lot 138.

16 CHAIRPERSON HILL: Okay. So as we had discussed
17 last week, this order has expired. I don't think Vice Chair
18 John is on this one either, but this order has expired. I
19 was giving another week to understand if the applicant was
20 going to do anything different. They have not done anything
21 different. My recommendation would be to dismiss this due
22 to the fact that the original order has expired and there is
23 nothing before us to modify.

24 Any thoughts on that, Mr. Smith?

25 MEMBER SMITH: I completely agree with your

1 assessment of this and would support a dismissal.

2 CHAIRPERSON HILL: Commissioner Stidham.

3 COMMISSIONER STIDHAM: I agree with the Chair.

4 CHAIRPERSON HILL: Thank you.

5 I'm going to go ahead and make a motion to dismiss
6 Application No. 19897-C and ask for a second.

7 Mr. Smith. Did you say second, Mr. Smith?

8 MEMBER SMITH: Second.

9 CHAIRPERSON HILL: Thank you.

10 Motion made and seconded.

11 Mr. Hamala, if you could please take a roll call.

12 MR. HAMALA: When I call your name, if you could
13 please respond to Mr. Hill's motion to dismiss this
14 application.

15 MR. HAMALA: Board Member Smith.

16 MEMBER SMITH: Yes.

17 MR. HAMALA: Zoning Commissioner Stidham.

18 COMMISSIONER STIDHAM: Yes.

19 MR. HAMALA: Chairman Hill.

20 CHAIRPERSON HILL: Yes.

21 MR. HAMALA: The motion passes 3-0-2 to dismiss
22 this application on the motion by Mr. Hill and seconded by
23 Mr. Smith.

24 CHAIRPERSON HILL: Thank you. You may call
25 our next one, Mr. Hamala.

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1 MR. HAMALA: Next we have Application No. 20991
2 of Jessica and Barrett McVary. This is as formerly amended
3 a self-certified application, pursuant to Subtitle X 901.2
4 for a special exception under Subtitle D 5201 from the rear
5 yard requirements of Subtitle D 207.1.

6 This is to construct a two-story rear addition to
7 an existing semi-detached two-story with cellar principal
8 dwelling unit in the R-2 zone located at 1016 Taussig Place,
9 NE, Square 3890, Lot 108.

10 CHAIRPERSON HILL: Thank you. All right. So we
11 heard this case last week and there was some discussion about
12 some relief that was in question. That relief has now been
13 withdrawn from the self-certified application.

14 I would, based upon the record and the argument
15 of the -- I'm sorry, and the -- yeah, the arguments of the
16 applicant agree with the applicant as to how they are meeting
17 the criteria for us to grant this relief. There was also
18 support from the Office of Planning. Also then there seems
19 to be support from neighbors including those of the adjacent
20 neighbors. I didn't particularly have a lot of issues with
21 this application and I would be voting in support.

22 Mr. Smith, do you have anything you would like to
23 add?

24 MEMBER SMITH: I don't have anything to add. I
25 agree with your statements thus far regarding this case and

1 note the ANC is also in support of this. I give great weight
2 to OP's support for the request.

3 CHAIRPERSON HILL: Thank you, Mr. Smith.

4 Commissioner Stidham.

5 COMMISSIONER STIDHAM: I also am in support and
6 ready to vote on this.

7 CHAIRPERSON HILL: Thank you. I appreciate, Mr.
8 Smith, your noting the ANC support. That was something I was
9 just reviewing and checking on.

10 I'm going to make a motion to approve Application
11 20991 as captioned and read by the Secretary and ask for a
12 second.

13 Mr. Smith.

14 MEMBER SMITH: Second.

15 CHAIRPERSON HILL: The motion has been made and
16 seconded. Take a roll call, Mr. Hamala.

17 MR. HAMALA: When I call your name, if you could
18 please respond to Mr. Hill's motion to approve this
19 application.

20 Zoning Commissioner Stidham.

21 COMMISSIONER STIDHAM: Yes.

22 MR. HAMALA: Board Member Smith.

23 MEMBER SMITH: Yes.

24 MR. HAMALA: Chairman Hill.

25 CHAIRPERSON HILL: Yes.

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1 MR. HAMALA: The staff would record the vote as
2 3-0-2 to approve this application on the motion made by Mr.
3 Hill and seconded by Board Member Smith.

4 CHAIRPERSON HILL: Okay, Mr. Hamala. You may call
5 our next one.

6 MR. HAMALA: Our next application is an expedited
7 review case and it is No. 21036 of Amy Chiang, Trustee. This
8 is a self-certified application pursuant to Subtitle X 901.2
9 for a special exception under Subtitle D 5201 from the lot
10 occupancy requirements of Subtitle D 210.1, and from the rear
11 yard requirements of Subtitle D 5004.1(a).

12 This is to construct a one-story rear addition to
13 an existing detached two story with basement principal
14 dwelling unit in the R-1-B zone located at 4409 39th Street,
15 NW, Square 1835, Lot 31.

16 CHAIRPERSON HILL: Okay. Let me see. All right.
17 I had a chance to look at the record. I don't particularly
18 have any issues with this case.

19 I mean, I'll note that the Office of Planning, I
20 think, has made a good thorough review of this and I would
21 agree with their recommendations, as well as the ANC who
22 actually has put forth a resolution that is a little more
23 detailed than we often get. Then -- one moment. And I am
24 comfortable with the relief that the applicant is requesting.
25 I'm going to be voting to approve.

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1 Mr. Smith, do you have anything you would like to
2 add?

3 MEMBER SMITH: I agree with your assessment of
4 this case. To me, it seems to be fairly straightforward.
5 I'm comfortable with the Office of Planning's assessment of
6 this case.

7 Given that this is about occupancy and assessing
8 building locations, given that the proposed additions would
9 bring the building closer to some of the neighbors, it's
10 great to hear that the neighbors are in support of the
11 applicant's proposed addition so they don't have any major
12 concerns. With that, I will support this application giving
13 great weight to OP's support.

14 CHAIRPERSON HILL: Thank you.

15 Commissioner Stidham.

16 COMMISSIONER STIDHAM: I am also in support of
17 this case and ready to move forward.

18 CHAIRPERSON HILL: Thank you.

19 Vice Chair John.

20 VICE CHAIR JOHN: I believe it's a fairly
21 straightforward application with a nominal increase in lot
22 occupancy needed to in-fill that small area on, I believe,
23 the east side of the building. I agree with OP's analysis
24 and, as I said earlier, I would support the application. The
25 ANC also filed a report in support.

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1 CHAIRPERSON HILL: Thank you, Vice Chair John.

2 All right. I make a motion to approve Application
3 No. 21036 as captioned and read by the secretary and ask for
4 a second. Ms. John.

5 VICE CHAIR JOHN: Second.

6 CHAIRPERSON HILL: The motion was made and
7 seconded. Mr. Hamala, if you could take a roll call, please.

8 MR. HAMALA: When I call your name, if you could
9 please respond to the motion made to approve the application
10 by Chairman Hill.

11 Board Member Smith.

12 MEMBER SMITH: (No audible response.)

13 MR. HAMALA: Vice Chair John.

14 VICE CHAIR JOHN: Yes.

15 MR. HAMALA: Chairman Hill.

16 CHAIRPERSON HILL: Yes.

17 Mr. HAMALA: Zoning Commissioner Stidham.

18 COMMISSIONER STIDHAM: Yes.

19 MR. HAMALA: Staff would record the vote as 4-0-1
20 to approve the motion made by -- to approve the application
21 on the motion made by Chairman Hill and seconded by Vice
22 Chair John.

23 CHAIRPERSON HILL: Thank you. Mr. Hamala, which
24 is the case that involves the interpreter?

25 Mr. HAMALA: That is No. 20997 of Derrick

1 Richardson and 408 Newcomb, LLC.

2 CHAIRPERSON HILL: Okay. All right. So we still
3 have the modification of consequence. Correct?

4 Mr. HAMALA: Yes, that's correct.

5 CHAIRPERSON HILL: Okay. Let's go ahead and do
6 the modification of consequence. I think we have enough
7 time.

8 Mr. HAMALA: All right. This is Application No.
9 20458-A of the Washington International School. This is a
10 request pursuant to Subtitle Y 703 for Modification of
11 Consequence to plans approved under Application No. 20458 on
12 an order issued on June 7, 2022.

13 Project is to allow the new, detached, academic
14 building on the campus of an existing private school and
15 modification would expand foundation walls, extend the NW
16 corner below grade, and to convert an at-grade skylight
17 embedded the south terrace walkway. This would be at 3100
18 Macomb Street, NW, Square 2084 on lots 841 and 845.

19 CHAIRPERSON HILL: Okay. Thank you. As per what
20 Mr. Hamala mentioned -- just mentioned concerning the project
21 descriptions about the modification consequence, and then the
22 applicant's statement, "Changes are necessary to accommodate
23 required mechanical and support systems for new academic
24 building.

25 The above-ground portion of the building would

1 conform with the approved BZA drawings with respect to
2 height, massing, configuration, overall design as approved
3 by HPRB. The proposed modification would not increase the
4 space occupied by students, faculty, or school programs or
5 activities."

6 I did have a chance to look at the record and
7 thought that it was relatively straightforward concerning
8 what they are requesting to do and why. I would also agree
9 with the analysis that the Office of Planning has provided,
10 as well as that of the ANC and I will be voting in support.

11 Mr. Smith, do you have anything you would like to
12 add?

13 MEMBER SMITH: I agree with your assessment of
14 this case and would support the application.

15 CHAIRPERSON HILL: Thank you.

16 Commissioner Stidham.

17 COMMISSIONER STIDHAM: I am ready to support. I
18 agree with your assessment as well.

19 CHAIRPERSON HILL: Thank you.

20 Vice Chair John.

21 VICE CHAIR JOHN: I'm also in agreement. I also
22 note that the changes are just to the building plans and does
23 not require any new relief.

24 CHAIRPERSON HILL: Thank you.

25 I'm going to go ahead and make a motion to approve

1 Application No. 20458-A as captured and read by the secretary
2 and ask for a second.

3 Vice Chair John.

4 VICE CHAIR JOHN: Second.

5 CHAIRPERSON HILL: The motion made and seconded.

6 Mr. Hamala, if you could take a roll call, please.

7 Mr. HAMALA: When I call your name, if you could
8 please respond to Mr. Hill's motion to approve this
9 application.

10 MR. HAMALA: Board Member Smith.

11 MEMBER SMITH: Yes.

12 Mr. HAMALA: Vice Chair John.

13 VICE CHAIR JOHN: Yes.

14 MR. HAMALA: Chairman Hill.

15 CHAIRPERSON HILL: Yes.

16 Mr. HAMALA: Zoning Commissioner Stidham.

17 COMMISSIONER STIDHAM: Yes.

18 MR. HAMALA: Staff would record the vote as 4-0-1
19 to approve the application on the motion made by Chairman
20 Hill and seconded by Vice Chair John.

21 CHAIRPERSON HILL: Okay. Thank you. I forgot,
22 Mr. Hamala. Which one did you say needed the interpreter?

23 Mr. HAMALA: That's 20997 of Derrick Richardson.

24 CHAIRPERSON HILL: Okay. Great. The interpreter
25 is here with us, I believe, so you can go ahead and call

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1 that, please.

2 (Whereupon, the above-entitled matter went off the
3 record at 10:20 a.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: Public Meeting

Before: DC ZC

Date: 12-06-23

Place: teleconference

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



Court Reporter

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