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Transcript of Hearing

Date: July 23, 2021

Case: Donna Mack (Massage Practice)

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Transcript of Hearing
Conducted on July 23, 2021

1 (1 to 4)

1	OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS	1	1	C O N T E N T S	3
2	FOR MONTGOMERY COUNTY, MARYLAND		2		
3	-----X		3	TESTIMONY OF WITNESSES	PAGE
4	In Re: :		4	By Ms. Mack	5
5	DONNA MACK : Case No. 21-08		5		
6	-----X		6		
7			7		
8			8		
9	HEARING		9		
10	Before Hearing Examiner Lynn Robeson Hannan		10		
11	Conducted Virtually		11		
12	Friday, July 23, 2021		12		
13	9:31 AM EST		13		
14			14		
15			15		
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21			21		
22			22		
23	Job No.: 388339		23		
24	Pages: 1 - 11		24		
25	Recorded by: Jesse Greer		25		
1	A P P E A R A N C E S	2	1	P R O C E E D I N G S	4
2			2	HEARING EXAMINER: I'm calling the case	
3	ON BEHALF OF THE APPLICANT:		3	of CU-2108, application of Donna Mack -- is it --	
4	DONNA MACK		4	or Mack?	
5	5225 Pooks Hill Road		5	THE APPLICANT: Mack.	
6	Bethesda, MD 20814		6	HEARING EXAMINER: Mack. Application of	
7			7	Donna Mack for a retail service establishment at	
8	ALSO PRESENT:		8	5225 Pooks Hill Road in the Bethesda, Maryland in	
9	NANA JOHNSON		9	the R-H Zone. Good morning.	
10	BARBARA COX		10	THE APPLICANT: Good morning.	
11			11	HEARING EXAMINER: Ms. Mack, let me do	
12			12	this first. This is informal but it does have	
13			13	some formalities, and one is that you have to be	
14			14	-- your testimony has to be under oath.	
15			15	THE APPLICANT: Okay.	
16			16	HEARING EXAMINER: So please raise your	
17			17	right hand.	
18			18	Whereupon,	
19			19	DONNA MACK,	
20			20	being first duly sworn or affirmed to testify to	
21			21	the truth, the whole truth, and nothing but the	
22			22	truth, was examined and testified as follows:	
23			23	HEARING EXAMINER: All right. Can you	
24			24	adjust your camera down a little bit because all I	
25			25	can see is your forehead. There we go. No, up,	



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2 (5 to 8)

<p>5</p> <p>1 up. There we -- no, down a little bit just to 2 that. There we go. I see your smiling face now. 3 THE APPLICANT: That's much better. 4 I'll have to hold it (inaudible) 5 HEARING EXAMINER: All right. Now one 6 thing we do -- have you read the staff report in 7 this case? 8 THE APPLICANT: I'm not sure what the 9 staff report is. 10 HEARING EXAMINER: Okay. If you can go 11 to OZAH's website, I haven't been able, for some 12 reason, to share my screen and I just don't know 13 why, and you will see a link that says public 14 hearing and remote access. 15 THE APPLICANT: Okay. Maybe that's what 16 this is. Officer, can you see this? 17 HEARING EXAMINER: I can. That's our 18 notice. 19 THE APPLICANT: Okay. 20 HEARING EXAMINER: The staff report 21 recommended approval of your conditional use, and 22 what we do many times is instead of having -- 23 instead of having you testify whether it meets all 24 the standards, we can just have you say you agree 25 with the staff report. Do you want to take five</p>	<p>7</p> <p>1 e-mailed you, and then go -- 2 THE APPLICANT: I'm signing in real 3 quick. 4 MS. JOHNSON: Okay. So then you -- then 5 you'll see that staff report, it's right there, 6 okay? 7 THE APPLICANT: Okay. 8 MS. JOHNSON: Let me know if you have 9 any questions, I'm here. 10 THE APPLICANT: Okay. Thank you. 11 MS. JOHNSON: All right. 12 (Whereupon, a discussion was held off 13 the record.) 14 HEARING EXAMINER: Okay. We are back on 15 the record. And, Ms. Mack, so you've had a chance 16 to review the staff report recommending approval. 17 Do you agree with all the findings and conditions 18 in the staff report? 19 THE APPLICANT: Yes. 20 HEARING EXAMINER: Okay. Now, do you -- 21 you've submitted flow plans and -- and a number of 22 things to staff, do they truly and accurately 23 represent -- do they fairly and accurately 24 represent the conditions of what you're proposing? 25 THE APPLICANT: Yes.</p>
<p>6</p> <p>1 minutes, and -- 2 THE APPLICANT: Do you mind? 3 HEARING EXAMINER: No, not at all. 4 THE APPLICANT: Okay. 5 HEARING EXAMINER: Go ahead. 6 THE APPLICANT: Can I -- you had said 7 something about not having two devices on, can I 8 use my laptop to look it up? 9 HEARING EXAMINER: Sure. 10 THE APPLICANT: Okay. 11 HEARING EXAMINER: Yeah. Because we're 12 off -- we're going to go off the record for five 13 minutes; okay? 14 THE APPLICANT: Okay. 15 MS. JOHNSON: Ms. Mack, if -- if -- if 16 you don't -- this is Nana, do you remember I sent 17 you an e-mail, and I told you to look through the 18 exhibits that will be referred to? 19 THE APPLICANT: Yes. 20 MS. JOHNSON: That's what -- look 21 through that e-mail. That's -- that's why -- that 22 -- that's the reason I sent that. So that has the 23 staff report on there; okay? 24 THE APPLICANT: Okay. 25 MS. JOHNSON: Click on that link that I</p>	<p>8</p> <p>1 HEARING EXAMINER: Okay. Is there 2 anything you would like to say about this? 3 THE APPLICANT: I -- I don't have 4 anything to add to the application process, no. 5 HEARING EXAMINER: Okay. Then with 6 that, we're going to conclude this hearing, and I 7 have to leave the record open for ten days -- 8 THE APPLICANT: Okay. 9 HEARING EXAMINER: -- to receive the 10 transcript. So -- and then I have 30 days to 11 write the decision but we do try to get it out 12 sooner. 13 THE APPLICANT: Okay. 14 HEARING EXAMINER: Okay? So if you 15 disagree with my decision, you have ten days to 16 appeal the decision to the Board of Appeals. 17 THE APPLICANT: Okay. 18 HEARING EXAMINER: Okay? 19 THE APPLICANT: Okay. 20 HEARING EXAMINER: And all that will be 21 written in the decision. You'll get a 22 notification when the decision comes out. 23 THE APPLICANT: Okay. 24 HEARING EXAMINER: All right. Thank you 25 so much for providing all the information quickly,</p>

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3 (9 to 12)

<p>9</p> <p>1 and with that I'm going to conclude this hearing. 2 THE APPLICANT: Thank you for your time. 3 HEARING EXAMINER: Okay. 4 THE APPLICANT: Thank you. 5 HEARING EXAMINER: Okay. We're off the 6 record. 7 (Off the record at 9:42 AM.) 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>11</p> <p>1 CERTIFICATION OF TRANSCRIPT 2 I, Mary Lide, do hereby certify that the 3 foregoing transcript, to the best of my ability, 4 knowledge, and belief, is a true and correct 5 record of the proceedings; that said proceedings 6 were reduced to typewriting under my supervision; 7 and that I am neither counsel for, related to, nor 8 employed by any of the parties to this case and 9 have no interest, financial or otherwise, in its 10 outcome. 11 12  13 _____ 14 Mary Lide, AAERT-CET 15 Planet Depos, LLC 16 8/2/2021 17 18 19 20 21 22 23 24 25</p>
<p>10</p> <p>1 2 CERTIFICATE OF COURT REPORTER 3 I, Jesse Greer, the officer 4 before whom the foregoing proceedings were taken, 5 do hereby certify that said proceedings were 6 electronically recorded by me; and that I am 7 neither counsel for, related to, nor employed by 8 any of the parties to this case and have no 9 interest, financial or otherwise, in its outcome. 10 11 12 13 14  15 _____ 16 Jesse Greer, Court Reporter 17 18 19 20 21 22 23 24 25</p>	

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<p style="text-align: center;">A</p> <p>aaert-cet 11:14 ability 11:3 able 5:11 about 6:7, 8:2 access 5:14 accurately 7:22, 7:23 add 8:4 adjust 4:24 administrative 1:1 affirmed 4:20 agree 5:24, 7:17 ahead 6:5 all 4:23, 4:24, 5:5, 5:23, 6:3, 7:11, 7:17, 8:20, 8:24, 8:25 also 2:8 any 7:9, 10:8, 11:8 anything 8:2, 8:4 appeal 8:16 appeals 8:16 applicant 2:3, 4:5, 4:10, 4:15, 5:3, 5:8, 5:15, 5:19, 6:2, 6:4, 6:6, 6:10, 6:14, 6:19, 6:24, 7:2, 7:7,</p>	<p>7:10, 7:19, 7:25, 8:3, 8:8, 8:13, 8:17, 8:19, 8:23, 9:2, 9:4 application 4:3, 4:6, 8:4 approval 5:21, 7:16</p> <p style="text-align: center;">B</p> <p>back 7:14 barbara 2:10 because 4:24, 6:11 been 5:11 before 1:10, 10:4 behalf 2:3 being 4:20 belief 11:4 best 11:3 bethesda 2:6, 4:8 better 5:3 bit 4:24, 5:1 board 8:16</p> <p style="text-align: center;">C</p> <p>calling 4:2 camera 4:24 case 1:5, 4:2, 5:7, 10:8, 11:8 certificate 10:2</p>	<p>certification 11:1 certify 10:5, 11:2 chance 7:15 click 6:25 comes 8:22 conclude 8:6, 9:1 conditional 5:21 conditions 7:17, 7:24 conducted 1:11 correct 11:4 counsel 10:7, 11:7 county 1:2 court 10:2, 10:16 cox 2:10 cu 4:3</p> <p style="text-align: center;">D</p> <p>days 8:7, 8:10, 8:15 decision 8:11, 8:15, 8:16, 8:21, 8:22 depos 11:15 devices 6:7 disagree 8:15 discussion 7:12 donna 1:5, 2:4, 4:3, 4:7, 4:19</p>	<p>down 4:24, 5:1 duly 4:20</p> <p style="text-align: center;">E</p> <p>e-mail 6:17, 6:21 e-mailed 7:1 electronically 10:6 employed 10:7, 11:8 est 1:13 establishment 4:7 examined 4:22 examiner 1:10, 4:2, 4:6, 4:11, 4:16, 4:23, 5:5, 5:10, 5:17, 5:20, 6:3, 6:5, 6:9, 6:11, 7:14, 7:20, 8:1, 8:5, 8:9, 8:14, 8:18, 8:20, 8:24, 9:3, 9:5 exhibits 6:18</p> <p style="text-align: center;">F</p> <p>face 5:2 fairly 7:23 financial 10:9, 11:9 findings 7:17 first 4:12, 4:20 five 5:25, 6:12 flow 7:21</p>
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