

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission**



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 10-17
Z.C. Case No. 10-17
(National Restaurant Association – Amendment to the Zoning Map
@ Square 160, Lot 809)
November 29, 2010**

The Zoning Commission for the District of Columbia (the “Commission”), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 787, D.C. Official Code § 6-641.01), and § 102 of Title 11 of the District of Columbia Municipal Regulations (“DCMR”), having held a public hearing to consider the application from the National Restaurant Association (the “Applicant”), and referred the proposed amendments to the National Capital Planning Commission (“NCPC”) for a 30-day review pursuant to § 492 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 6-641.02) (“District Charter”), hereby gives notice of its adoption of an amendment to the Zoning Map of the District of Columbia that rezones Lot 809 in Square 160 (“Property”) from the DC/SP-2 to the DC/C-4 Zone District.

FINDINGS OF FACT

1. On June 15, 2010, the Office of Zoning received an application from the Applicant requesting the Commission to rezone the Property from the DC/SP-2 to the DC/C-4 Zone District (“Application”). The Commission set down the Application for a public hearing as a contested case at its July 26, 2010 public meeting.
2. The Property is located on the west side of 17th Street, between M Street and Rhode Island Avenue, N.W. It is improved with the National Restaurant Association Building, an eight-story edifice constructed in 1964 pursuant to Board of Zoning Adjustment (“BZA”) Order No. 7236, which authorized a special exception that was necessary at the time in order to construct an office building for non-profit associations and certain professional practices. In 1998, the Zoning Regulations were amended to allow general office use to replace non-profit and professional offices in the SP District as a matter of right. The building is now occupied by a variety of office tenants. Constructed to a height of 90 feet, the building contains approximately 93,572 square feet of space, which equates to a floor area ratio of approximately 5.5.
3. The area is dominated by high-density commercial buildings. In the western portion of Square 160, two office structures rise to a height of 130 feet. Across Rhode Island Avenue to the north are the YMCA, St. Matthew’s Cathedral and St. Matthew’s Court, rising to a height of 114 feet. To the east across 17th Street are an eight-story building occupied by the Human Rights Campaign and the Sumner School redevelopment, with an

overall height of 100 feet. To the south across M Street are several other large-scale office buildings, which have a maximum height of 130 feet.

4. Notice of the public hearing was given in accordance with the provisions of 11 DCMR §§ 3014 and 3015.
5. Advisory Neighborhood Commission ("ANC") 2B, the ANC in which the Property is located, was automatically accorded party status. There were no other parties to the case other than the Applicant and ANC 2B.
6. On October 28, 2010, the Commission held a public hearing on the Application. Steven E. Sher, an expert in land use and zoning, testified on behalf of the Applicant. Mr. Sher testified that the Future Land Use Map of the Comprehensive Plan designates the Property for High Density Commercial development. He stated that the proposed rezoning is consistent with numerous elements of the Comprehensive Plan, including, among others, policies to sustain a strong city center (Land Use Element), actions to promote office growth and development of signature office buildings (Economic Development Element), and specific area goals to foster mixed use development and office growth in Central Washington. According to Mr. Sher, the proposed map amendment would create favorable conditions for the District by allowing for the same use, height and bulk as currently allowed on other property in the square and with the predominant zoning in the area. He also noted that the site is located within the Central Employment Area, with excellent proximity to mass transit and appropriate for the highest density commercial office zoning.
7. By letter dated July 15, 2010, ANC 2B stated that, at a duly noticed monthly meeting held July 14, 2010, with a quorum present, the ANC voted 9-0 to support the Application, subject to the park at the southwest corner of 17th Street and Rhode Island Avenue not being compromised. In response to the ANC concern, the Applicant submitted a plan as part of its pre-hearing statement showing an enhanced landscaped area at the corner that could be incorporated into a new development at the Property.
8. The Office of Planning ("OP") reviewed the Applicant's proposal to rezone the Property to the DC/C-4 Zone District and, in its report dated July 16, 2010, recommended that the Application be set down for public hearing. OP opined that the requested map amendment would not be inconsistent with the Comprehensive Plan. OP also recommended approval of the Application through a written report dated October 18, 2010. OP stated that the 2006 Comprehensive Plan Future Land Use map recommends high density commercial uses for the property. It noted that this land use, which defines the central employment district of the city, is typically comprised of mixed-use office and retail buildings over eight stories in height. Because high density commercial areas generally have commercial zoning designations ranging from C-2 to C-5, OP concluded

that the proposed DC/C-4 zoning would not be inconsistent with the 2006 Comprehensive Plan.

9. At the conclusion of the public hearing on October 28, 2010, the Commission took proposed action to approve the map amendment. Pursuant to § 492 of the District Charter, the Commission referred its proposed decision of approval to the National Capital Planning Commission (“NCPC”) for review and comment.
10. By delegated action dated October 28, 2010, NCPC found that the proposed map amendment would not be inconsistent with the Comprehensive Plan for the National Capital, nor would it have an adverse impact on any other federal interest.
11. The Commission took final action to approve the map amendment at its regularly scheduled meeting held on November 29, 2010.

CONCLUSIONS OF LAW

1. The Commission’s authority to amend the Zoning Map derives from the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, D.C. Official Code § 6-641.01 *et. seq.*) (“Zoning Act”).
2. Section 1 of the Zoning Act, D.C. Official Code § 6-641.01 identifies the various ways that the Commission may regulate the construction and use of buildings so as to “promote the health, safety, morals, convenience, order, prosperity, or general welfare of the District of Columbia and its planning and orderly development as the national capital.”
3. That same section authorized the Commission “divide the District of Columbia into districts or zones of such number, shape, and area as said Zoning Commission may determine, and within such districts [to] regulate the erection, construction, reconstruction, alteration, conversion, maintenance, and uses of buildings and structures and the uses of land.”
4. Section 2 of the Zoning Act, D.C. Official Code § 6-641.02, as amended by § 492 of the Home Rule Act provides:

Zoning maps and regulations, and amendments thereto, shall not be inconsistent with the comprehensive plan for the national capital, and zoning regulations shall be designed to lessen congestion on the street, to secure safety from fire, panic, and other dangers to promote health and the general welfare, to provide adequate light and air, to prevent the undue concentration and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection

of property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein.

5. Section 3 of the Zoning Act, among other things, provides that the maps in place as of the effective date of the Zoning Act of 1938 “shall be and continue in force and effect until and as they may be amended by the Zoning Commission” and that the “Zoning Commission may from time to time amend ... the maps.”
6. The Commission concludes the proposed map amendment is consistent with the purposes of the Zoning Act. The amendment will allow use of the property consistent with its designation on the Future Land Use Map for high density commercial purposes. Even if the Applicant were to utilize of the maximum height and bulk available under DC/C-4 zoning, the result will not be obtrusive nor will it cause any adverse affect on any nearby properties.
7. The Commission concludes that approval of the requested map amendment from the DC/SP-2 to the DC/C-4 Zone District is not inconsistent with the Comprehensive Plan.
8. The Commission also concludes that the requested map amendment is in the best interests of the District of Columbia and will benefit the community in which the Property is located.
9. The Commission is required under D.C. Official Code § 1-309.10(d) to give great weight to issues and concerns expressed in the affected ANC's written recommendation. The Commission concurs with the ANC’s recommendation for approval, and has given it the great weight to which it is entitled.
10. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to OP recommendations. The Commission concurs with the OP’s recommendation for approval, and has given the recommendation the great weight to which it is entitled.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the

Application for an amendment of the Zoning Map to change the zoning of Lot 809 in Square 160 from the DC/SP-2 to the DC/C-4 Zone District.

In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §§ 2-1401.01 et seq. (Act), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

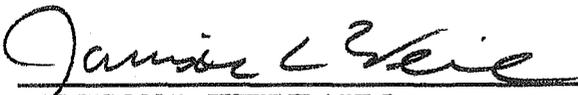
On October 28, 2010, upon motion of Chairman Hood, as seconded by Vice Chairman Schlater, the Zoning Commission **APPROVED** the Application at the conclusion of the public hearing by a vote of 4-0-1 (Anthony J. Hood, Konrad W. Schlater, Greg M. Selfridge, and Michael G. Turnbull to approve; Peter G. May, not present, not voting).

On November 29, 2010, upon motion of Chairman Hood, as seconded by Vice Chairman Schlater, the Zoning Commission **ADOPTED** the Order at its public meeting by a vote of 4-0-1 (Anthony J. Hood, Konrad W. Schlater, Greg M. Selfridge, and Michael G. Turnbull to adopt; Peter G. May, not having participated, not voting).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become effective upon publication in the *D.C. Register*; that is on December 24, 2010.

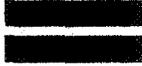


ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



JAMISON L. WEINBAUM
DIRECTOR
OFFICE OF ZONING

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



Z.C. CASE NO.: 10-17

DEC 21 2010

As Secretary to the Commission, I hereby certify that on _____ copies of this Z.C. Order No. 10-17 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

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ATTESTED BY:

Sharon S. Schellin
Secretary to the Zoning Commission
Office of Zoning