

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 10-25
Z.C. Case No. 10-25
(Urban Investment Partners –
Map Amendment at Square 2843, Lots 8, 10, and 808)
February 28, 2011

Pursuant to public notice, the Zoning Commission for the District of Columbia (the “Commission”) held a public hearing on January 20, 2011, 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”), to consider an application from Urban Investment Partners (the “Applicant”). The application requested review and approval of an amendment to the Zoning Map of the District of Columbia to change the zoning for Square 2843, Lots 8, 10, and 808 (the “Property”), from R-4 to the R-5-B Zone District. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022.

FINDINGS OF FACT

1. On October 6, 2010, the Office of Zoning received an application from the Applicant requesting that the Commission rezone the Property from the R-4 Zone District to the R-5-B Zone District.
2. At the time the application was filed, the Applicant was the contract purchaser of the Property.
3. The Property is zoned R-4 and occupies approximately 28,505 square feet near the western edge of Square 2843, just east of 14th Street, N.W. The Property is improved with two multi-family apartment buildings; one fronting on Park Road, N.W., and the other fronting on Kenyon Street, N.W. 1436 Park Road (Lot 10) is improved with a three-story building containing 21 units. 1349 Kenyon Street (Lots 8 and 808) is improved with a four-story building containing 40 units. Both buildings are nonconforming under their R-4 zoning.
4. Immediately to the west of the Property is a large mixed-use residential building of medium- to high-density. The properties to the west are zoned C-3-A, and the zone line abuts the Property. The C-3-A Zone District forms a medium-density, mixed-use

corridor along 14th Street, N.W. To the east of the Property are primarily row dwellings and a few small apartment buildings of moderate density.

5. By memorandum dated November 19, 2010, and through testimony at the public meeting held on November 29, 2010, the Office of Planning (“OP”) recommended that the Commission set down the application for a map amendment for Lots 8, 10, and 808, in Square 2843, for a hearing to consider rezoning to R-5-B.
6. The Commission set the case down for a public hearing at its November 29, 2010 public meeting as a contested case. The Commission adopted OP’s recommendation that the Commission consider rezoning the Property to R-5-B.
7. Notice of the public hearing was provided in accordance with the provisions of 11 DCMR §§ 3014 and 3015.
8. On January 20, 2011, the Commission held a public hearing on the application. The Applicant did not offer verbal testimony but rested on the written record in the case. In its pleadings, the Applicant stated that its request was to rezone the Property to a higher density zone district in order to bring the two buildings into better conformance with their zone district and to allow for the addition of units in the basements of the buildings. These two buildings have been nonconforming since being included in the R-4 Zone District and they are not characteristic of the types of properties typically contained in the R-4 Zone District.
9. OP recommended, in its final report dated January 10, 2011, rezoning the Property to the R-5-B Zone District. The OP report stated that the R-5-B Zone District is appropriate in terms of use and density and would more appropriately reflect the existing development of the Property. Also, the report noted that R-5-B zoning is prevalent in the Property’s vicinity. The report stated that rezoning to the R-5-B Zone District would bring the buildings into greater conformity and that the R-4 Zone District constrains providing additional units in the buildings’ basements. The report stated that the Future Land Use Map of the Comprehensive Plan for the National Capital (“Comprehensive Plan”) designates the Property for moderate-density residential development and that nearly half of all R-5-B zones in the District have a designation of moderate-density residential. Among others, OP cited land use policy LU-2.1.C: Residential Rezoning, which is to “Provide a better match between zoning and existing land uses in the city’s residential areas...” In addition, the report cited housing policy H-1.1: Expanding Housing Supply, which states the following: “Expanding the housing supply is a key part of the District’s vision to create successful neighborhoods... The District will work to facilitate housing construction and rehabilitation through its planning, building, and housing programs... The first step toward meeting this goal is to ensure that an adequate supply of appropriately zoned land is available to meet expected housing needs.”

10. Advisory Neighborhood Commission (“ANC”) 1A, the ANC in which the Property is located, submitted a letter in support of the proposed rezoning. With a quorum present at its October 13, 2010 meeting, the ANC voted 7-0 to support the application.
11. At the conclusion of the public hearing on January 20, 2011, the Commission took proposed action to approve the map amendment.
12. Pursuant to § 492(b)(2) of the District of Columbia Home Rule Act, approved Dec. 24, 1973 (87 Stat. 810; D.C. Official Code § 6-641.05), the Commission referred the application to the National Capital Planning Commission (“NCPC”) for review and comment. By letter dated February 17, 2011, NCPC said it was unable to align the schedules of NCPC and the Office of Zoning for this case; therefore, NCPC would be unable to take action on the proposal before it was approved for final action by the Zoning Commission. However, a staff review did not identify any impacts to federal interests.
13. The Commission finds that the proposed map amendment is not inconsistent with the Comprehensive Plan.

CONCLUSIONS OF LAW

The Commission’s authority to amend the Zoning Map derives from the Zoning Act of 1938, effective June 20, 1938 (52 Stat. 797, D C. Official Code § 6-641.01 *et seq.*) (“Zoning Act”). Section 1 of the Zoning Act authorizes the Commission to regulate the uses of property in order 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.” (D.C. Official Code § 6-641.01.)

Section 2 of the Zoning Act provides that the

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.

(D.C. Official Code § 6-641.02.)

Section 3 of the Zoning Act, among other things, authorizes the Commission to amend the zoning regulations and maps. (D.C. Official Code § 6-641.03.)

The Commission concludes that approval of an amendment to the R-5-B Zone District is consistent with the purposes of the Zoning Act. The rezoning creates a transition from the C-3-A Zone District in the medium-density mixed-use corridor along 14th Street, N.W., to the west, to the R-4 Zone District in the moderate-density residential neighborhood to the east. The R-5-B Zone District is designed to be located in moderate-density residential areas. (11 DCMR § 350.2.) Further, the Commission finds that the proposed R-5-B zoning is more appropriate for the buildings on the Property, and that rezoning the Property to R-5-B will bring the buildings into greater conformance with their zone district.

In amending the Zoning Map, the Commission is constrained by the limitation in the District Charter that the Zoning Map be “not inconsistent” with the Comprehensive Plan. § 492(b)(1) of the District of Columbia Home Rule Act; DC. Official Code § 6-641.02. The Commission concludes that approval of the requested map amendment is not inconsistent with the Comprehensive Plan. The requested map amendment furthers the goals of the Comprehensive Plan, and promotes orderly development in conformity with the Zone Plan as embodied in the Zoning Regulations and Map.

The Commission 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.

The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the affected ANC’s written recommendation. ANC 1A provided written support of the application in this case, so the Commission has given the ANC’s support the great weight to which it is entitled.

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’s recommendations. The Commission concurs with the OP’s recommendation for rezoning the Property to the R-5-B Zone District and has given its 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 Lots 8, 10, and 808 in Square 2843 from the R-4 Zone District to the R-5-B Zone District.

On January 20, 2011, upon motion of Commissioner May, as seconded by Commissioner Turnbull, the Zoning Commission voted to **APPROVE** the application at the conclusion of the

public hearing by a vote of 3-0-2 (Konrad W. Schlater, Peter G. May, and Michael G. Turnbull to approve; Anthony J. Hood and Greg M. Selfridge not present, not voting).

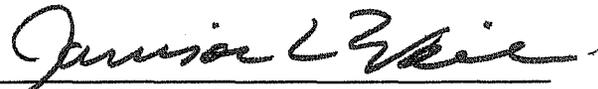
On February 28, 2011, upon motion by Vice Chairman Schlater, as seconded by Commissioner Turnbull, the Order was **ADOPTED** by the Zoning Commission at its public meeting by a vote of 3-0-2 (Konrad W. Schlater, Peter G. May, and Michael G. Turnbull to adopt; Anthony J. Hood and Greg M. Selfridge, not having participated, not voting).

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.

In accordance with the provisions of §3028.9 of the Zoning Regulations, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on March 18, 2011.



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.: 10-25

As Secretary to the Commission, I hereby certify that on MAR 15 2011 copies of this Z.C. Order No. 10-25 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