

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

ZONING COMMISSION ORDER NO. 11-04

Z.C. Case No. 11-04

Severna, LLC & Golden Rule Apartments, Inc.

(Map Amendment @ Square 621)

September 12, 2011

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 SeVerna, LLC and Golden Rule Apartments, Inc. (the “Applicant”), and referred the proposed map amendment to the National Capital Planning Commission (“NCPC”) for a 30-day review pursuant to § 492 of Title IV of the District of Columbia Home Rule Act (the “District’s Charter”), approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 6-641.02), hereby gives notice of its adoption of an amendment to the Zoning Map of the District of Columbia that rezones a portion of Lot 861 in Square 621 and the entirety of Lot 862 in Square 621 from the C-2-A Zone District to the C-2-C Zone District.

FINDINGS OF FACT

1. On February 11, 2011, the Office of Zoning received an application from the Applicant requesting the Commission to rezone a portion of Lot 861 in Square 621 and the entirety of Lot 862 in Square 621 from the C-2-A Zone District to the C-2-C Zone District (“Application”). The Zoning Commission set down the Application for a public hearing as a contested case at its March 28, 2011 public meeting.
2. The property consists of 50,260 square feet of land area and is situated north of K Street, N.W., at the northeast intersection of 1st Street, N.W., and K Street, N.W. The area to be rezoned includes all land between 1st Street and 1st Terrace extending north 142.5 feet from the right-of-way of K Street, N.W. (the “Property”). The Property is currently unimproved. The Future Land Use Map of the District Elements of the Comprehensive Plan for the National Capital (“Comprehensive Plan”) designates the Property for Mixed-Use: High-Density Residential and Medium-Density Commercial uses. The Property is designated within a Land Use Change Area on the Generalized Policy Map. The Property is also located within the NOMA/Northwest One Area Focus Area within the Central Washington Area Element of the Comprehensive Plan.
3. The area in the immediate vicinity of the property is characterized by a number of zoning districts and uses. A portion of Lot 861 to the immediate north of the property is zoned

C-2-A and is currently being developed to include 48 affordable units in a five-story apartment building along First Street, N.W., and 12 affordable two-over-two style townhouse units along L Street, N.W. In addition, the area to the northeast of the property is zoned R-5-D, which permits a building height of 90 feet as a matter-of-right, and the area east of the property is zoned C-2-B, which permits a building height of 65 feet as a matter-of-right.

4. Notice of the public hearing was given in accordance with the provisions of 11 DCMR §§ 3014 and 3015.
5. Advisory Neighborhood Commission ("ANC") 6C, 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 6C.
6. On June 30, 2011, the Commission held a public hearing on the Application. Ms. Yvonne Williams and Mr. Steven E. Sher, an expert in land use and zoning, testified on behalf of the Applicant.
7. By letter dated April 18, 2011, ANC 6C indicated that at a duly noticed and regularly scheduled meeting on April 13, 2011, and with a quorum of the ANC commissioners and members of the public present, the ANC voted 8-0-0 to support the map amendment.
8. The Office of Planning ("OP") reviewed the Applicant's proposal to rezone the property to the C-2-C Zone District and, in its report dated March 18, 2011, 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, and would allow the anticipated development in the Northwest One area. OP also recommended approval of the Application through a written report dated June 20, 2011.
9. Based upon the testimony and evidence presented, as well as the OP reports, the Commission finds that the proposed rezoning is consistent with numerous elements of the Comprehensive Plan, including, among others, policies to manage growth and change, creating successful neighborhoods, ensuring the efficient use of land resources (Land Use Element), creation of a safe and sustainable transportation network that meets the access and mobility needs of residents (Transportation Element), developing and maintaining a safe, decent, and affordable supply of housing for all current and future residents of the District (Housing Element), and specific area goals to foster mixed use and new housing development in Central Washington. The Commission also finds that the proposed map amendment would create favorable conditions for the District and satisfies each of the statutory standards applicable to map amendments.
10. The Commission further finds that the map amendment would permit commercial and residential functions as a matter-of-right on the property and would implement the Future

Land Use Map's designation of the property for Mixed-Use: High-Density Residential and Medium-Density Commercial uses; permit the matter-of-right development of a significant amount of new residential density on the property, which is consistent with the property's designation within a Land Use Change Area on the Generalized Policy Map; and would help to reinforce elements of the NOMA/Northwest One Area Focus Area within the Central Washington Area Element of the Comprehensive Plan.

11. At the conclusion of the public hearing on June 30, 2011, 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 NCPC for review and comment.
12. By delegated action dated August 25, 2011, the NCPC Executive Director 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.
13. The Commission took final action to approve the map amendment at its regularly scheduled meeting held on September 12, 2011.

CONCLUSIONS OF LAW

1. 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) ("Zoning Act").
2. 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.)
3. 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.)

4. 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.)
5. 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 residential and medium-density commercial uses.
6. In amending the Zoning Map, the Commission is constrained by the limitation of § 492(b)(1) of the District of Columbia Home Rule Act, D.C. Official Code § 6-641.02, that the Zoning Map be “not inconsistent” with the Comprehensive Plan. 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.
7. 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.
8. 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 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.
9. 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 a portion of Lot 861 in Square 621 (as shown on the plat attached to this Order), and the entirety of Lot 862 in Square 621 from the C-2-A Zone District to the C-2-C Zone District.

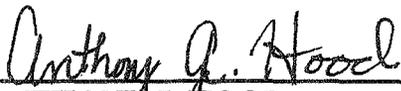
The Applicant is required to comply fully with the provisions of the D.C. Human Rights Act of 1977, D.C. Law 2038, as amended, D.C. Official Code § 2-1404.01 *et seq.* ("Act"). This order is conditioned upon full compliance with those provisions. In accordance with the Act, the District

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 that 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 June 30, 2011, upon the motion of Commissioner May, as seconded by Commissioner Turnbull, the Zoning Commission **APPROVED** this Application at its public hearing by a vote of **3-0-2** (Anthony J. Hood, Peter G. May, and Michael G. Turnbull to approve; Konrad W. Schlater and Greg M. Selfridge, not present, not voting).

On September 12, 2011, upon the motion of Chairman Hood, as seconded by Commissioner May, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **3-0-2** (Anthony J. Hood, Peter G. May, and Michael G. Turnbull to adopt; Konrad W. Schlater and Greg M. Selfridge, 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 October 7, 2011.

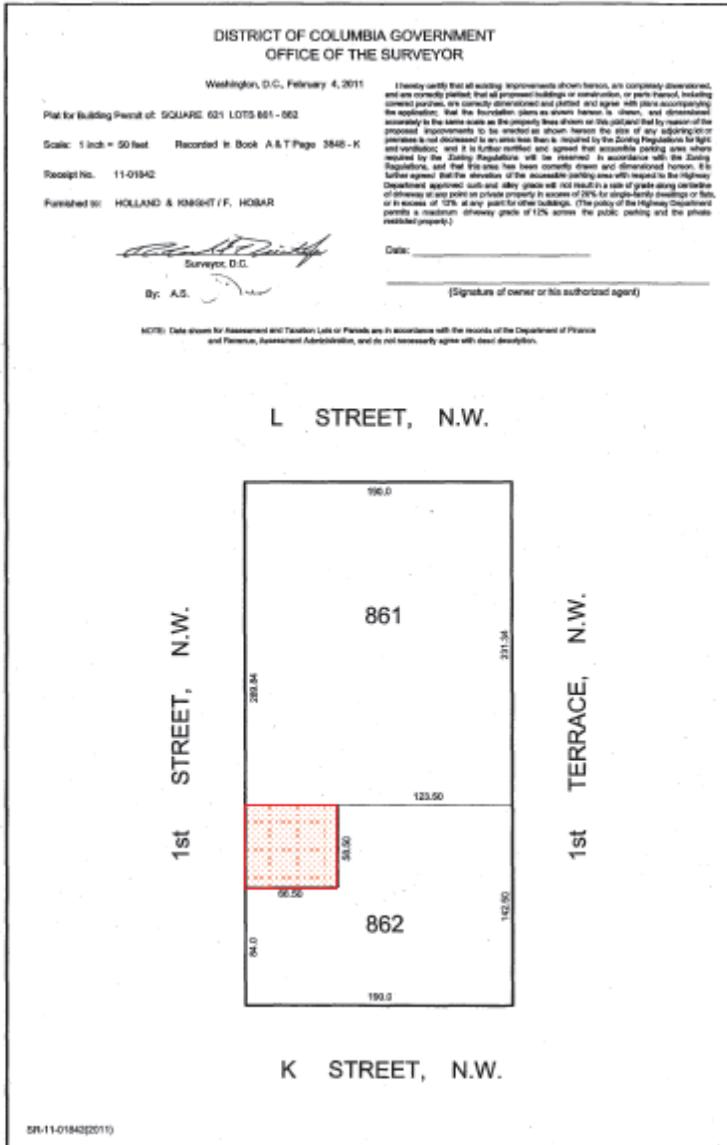


ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



RICHARD S. NERO, JR.
ACTING DIRECTOR
OFFICE OF ZONING

PLAT SHOWING REZONED PROPERTY. ALL OF LOT 862 AND THE PORTION OF LOT 861 SHADED WITH DOTS ARE REZONED FROM THE C-2-A TO THE C-2-C ZONE DISTRICT.



GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



Z.C. CASE NO.: 11-04

As Secretary to the Commission, I hereby certify that on SEP 29 2011 copies of this Z.C. Order No. 11-04 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

- | | | | |
|----|---|-----|--|
| 1. | <i>D.C. Register</i> (via e-mail) | 6. | Councilmember Tommy Wells |
| 2. | Norman M. Glasgow, Jr., Esq.
Kyrus Freeman, Esq.
Holland & Knight
2099 Pennsylvania Avenue, N.W. Suite 100
Washington, D.C. 20006 | 7. | DDOT (Karina Ricks) |
| 3. | ANC 6C
P.O. Box 77876
Washington, D.C. 20013 | 8. | Melinda Bolling, Acting General Counsel
DCRA
1100 4 th Street, S.W.
Washington, D.C. 20024 |
| 4. | ANC 6C03 - Vacant | 9. | Office of the Attorney General (Alan Bergstein) |
| 5. | Gottlieb Simon
ANC
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004 | 10. | Robert McKeon
Office of Tax & Revenue
1101 4th Street, SW, Suite W270
Washington, DC 20024 |

ATTESTED BY:

A handwritten signature in cursive script that reads "Sharon S. Schellin".

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