

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING

AND

Z.C. ORDER NO. 13-07

Z.C. Case No. 13-07

(Map Amendment – 11 DCMR)

(Zoning Map Amendment for Lots 11-13 (Tax Lot 805), 14, 15, 16-17 (Tax Lot 806), 18-21 (Tax Lot 804), 22, and 52, in Square 5081 from the C-3-A Zone District to the R-5-C Zone District)

June 9, 2014

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797 D.C. Official Code § 6-641.01) (2012 Repl.) hereby gives notice of the adoption of the following amendments to the Zoning Map incorporated into the Zoning Regulations of the District of Columbia (Title 11, DCMR). A Notice of Proposed Rulemaking was published in the *D.C. Register* on May 2, 2014, at 61 DCR 4452. The amendments shall become effective upon the publication of this notice in the *D.C. Register*.

The amendment accomplishes the following rezoning:

SQUARE	LOTS	Map Amendment
5081	11-13 (Tax Lot 805)	C-3-A to R-5-C
5081	14	C-3-A to R-5-C
5081	15	C-3-A to R-5-C
5081	16-17 (Tax Lot 806)	C-3-A to R-5-C
5081	18-21 (Tax Lot 804)	C-3-A to R-5-C
5081	22	C-3-A to R-5-C
5081	52	C-3-A to R-5-C

The properties identified in the above table will collectively be referred to as “the Subject Property.”

Procedures Leading to Adoption of Amendments

On April 19, 2013, David P. Belt filed a petition requesting that the Commission rezone the Subject Property¹ from the C-3-A to the R-1-B Zone District. The petition asserted that the

¹ Mr. Belt’s petition described the Subject Property as Lots 11-22, 52, 804, 805, and 806. However, Tax Lot 804 is comprised of Record Lots 18-21, Tax Lot 805 is comprised of Record Lots 11-13, and Tax Lot 806 is comprised of

C-3-A Zone District is not consistent with the “moderate density residential” designation for the Subject Property shown on the Comprehensive Plan’s Future Land Use Map.

On June 28, 2013, the Office of Planning (“OP”) submitted a report suggesting that the Commission should set down only an R-5-A rezoning for a public hearing, rather than the R-1-B zoning proposed because the R-5-A Zone District is more consistent with the moderate density residential designation. The OP report stated that OP had consulted with Mr. Belt, and that he was not opposed to OP’s suggestion.

The Commission considered the petition and the OP report at its July 8, 2013 public meeting and voted to only hold a hearing to rezone the Subject Property to the R-5-A Zone District.

A properly noticed public hearing was held on September 26, 2013. At the hearing, the contract purchaser of one of the parcels, Lot 52, Square 5081, and the owner of a second parcel, record Lots 18 through 21, testified in opposition to the amendment. The contract purchaser of Lot 52, Square 5081 stated that the proposed amendment would not permit it to construct a proposed 71-unit affordable residential project on the property.

In light of that and other testimony, the Commission requested that OP prepare a supplemental report that took into account all the circumstances surrounding this case, for the Commission’s consideration at its October 21, 2013 regularly scheduled public meeting.

OP submitted a supplemental report on October 7, 2013 and recommended dismissal of the petition principally because 60% of the Subject Property was owned by persons who opposed the rezoning proposed. The Petitioner objected to that recommendation in a response submitted on October 15, 2013.

The Commission considered these filings at its October 21, 2013 public meeting. The Commission stated its discomfort at dismissing a petition intended to reconcile existing zoning with the Comprehensive Plan, but also did not favor keeping its set down in effect, since this would require that all future building permit applications be processed as if the R-5-A zoning were in place for so long as the case was pending pursuant to § 3202.5 (b). The Commission therefore voted to rescind its set down and asked OP to submit a second preliminary report with an alternative recommendation for rezoning the Subject Property.

The Petitioner submitted his recommendation on November 5, 2013, and OP submitted its second preliminary report on November 8, 2013. The Petitioner recommended an amendment to the R-5-B Zone District for the entire Subject Property while OP recommended R-5-C zoning for Lot 52 and R-5-A zoning for the remaining properties. OP also indicated that it had no objection

Record Lots 16 and 17. Thus, the petition lists several of the Record Lots twice. The Commission revised the property description in this order for clarity, but the property in question has not changed.

to all but Lot 52 being rezoned to R-5-B. In its testimony to the Commission at the public meeting, OP indicated that it was withdrawing its R-5-A recommendation and was now only recommending R-5-B for all but Lot 52.

At a public meeting on November 18, 2013, the Commission set down the revised OP recommendation for a public hearing and a second notice of public hearing was published.

OP submitted a hearing report dated February 10, 2014. The report concluded that the proposed zoning was not inconsistent with the Comprehensive Plan.

The Commission held a hearing on February 20, 2014. At the conclusion of the hearing, the Commission, among other things, requested that OP convene a meeting between the property owners, the developers of the affordable housing project, and Advisory Neighborhood Commission (ANC) 7F to discuss zoning alternatives for the seven properties that comprised the Subject Property.

OP submitted its final report dated March 24, 2014. The report stated that the requested meeting was held on Thursday, March 20th, and was attended by the owners or representatives of all the parcels (except one) comprising the Subject Property, the co-developers of the affordable housing project, the Single Member Representative of ANC 7F, and three OP staff. At that meeting, a consensus emerged that all of the properties should be treated the same and that, under these circumstances, an amendment to rezone the Subject Property to the R-5-C Zone District would be acceptable. OP indicated that while it continued to support the R-5-B/R-5-C split, it would not oppose all properties being rezoned to R-5-C. The report also listed the factors that supported R-5-C zoning for the Subject Property, and stated that OP found that R-5-C zoning for the Subject Property was not inconsistent with the Comprehensive Plan.

In a letter dated March 27, 2014, the Petitioner stated his support for the compromise approach, indicating that “after careful consideration we will accept whatever zoning the [C]ommission sees fit, whether it is R-5-B or R-5-C we request that the [C]ommission zone all properties the same.” The letter also referred to a conversation that the Petitioner had during the meeting with Mr. Stan Voudrie who represented one of the co-developers. According to the Petitioner, Mr. Voudrie indicated that the developers had “not spent considerable resources as represented to the Zoning Commission” and “only had a concept drawing, not working plans.” In addition, the letter stated that Mr. Voudrie indicated that the project had not yet received funding.

At its regularly scheduled public meeting held on April 15, 2014, the Commission considered OP’s final report and the Petitioner’s letter, and took proposed action to rezone the Subject Property to the R-5-C Zone District, authorizing publication of a proposed rulemaking notice and referral of the proposed change to the National Capital Planning Commission (NCPC) for the thirty (30) day period of review required under § 492 of the District Charter. The Commission

also offered Mr. Voudrie an opportunity to respond to the statements attributed to him by the Petitioner.

Mr. Voudrie submitted a letter in response to Petitioner on April 22, 2014. His letter stated that Mr. Belt's characterization of their conversation on March 20, 2014 was inaccurate, because the developers had expended in excess of \$500,000 in furtherance of their development plans for the site and that they had developed schematic plans at that point that were appropriate for the proposal given that it was still early in the development process. Mr. Voudrie also stated in his letter that he had made accurate representations to the Commission about their efforts to finance the project.

NCPC's Executive Director, through a delegated action dated April 24, 2014, found that the proposed map amendment would not be inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital.

The Notice of Proposed Rulemaking was published in the *D.C. Register* on May 2, 2014, at 61 DCR 4452, for a 30-day notice and comment period. No comments were received.

At a properly noticed June 9, 2014 public meeting, the Commission, after reviewing Mr. Voudrie's letter and concluding that it adequately responded to the Petitioner's assertions, took final action to adopt the following map amendment:

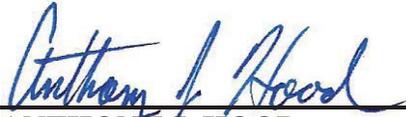
The Zoning Map of the District of Columbia is amended as follows:

SQUARE	LOTS	Map Amendment
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5081	22	C-3-A to R-5-C
5081	52	C-3-A to R-5-C

On April 15, 2014, upon the motion of Commissioner Miller, as seconded by Vice Chairman Cohen, the Zoning Commission **APPROVED** the petition at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

On June 9, 2014, upon the motion of Chairman Hood, as seconded by Vice Chairman Cohen, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028.9, this Order shall become effective upon publication in the *D.C. Register*; that is on June 20, 2014.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING

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The full text of this Zoning Commission Order is published in the Final Rulemaking section of this edition of the *D.C. Register*.