

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 313
CASE NO. 79-21
May 8, 1980

Pursuant to notice, a public hearing of the District of Columbia Zoning Commission was held on February 28, 1980 in room 11A at the District Building, 1350 E Street, N.W. to consider proposed amendments to the text of the Zoning Regulations of the District of Columbia. The amendments proposed were relative to the elimination of the Board of Zoning Adjustment (BZA) from the Planned Unit Development (PUD) process.

On February 8, 1979, by Order No. 251, the Zoning Commission adopted comprehensive changes in the PUD provisions of the Zoning Regulations, as contained in Section 7501. In addition to revised PUD development standards that effected the CR, Special Purpose, and Commercial Districts, Order No. 251 revised the PUD process affecting all zoning districts.

On February 28, 1979 the Zoning Secretariat received a letter from Samuel Scrivener, Jr., representing the Capitol Hill Hospital, who raised the question of whether an applicant for approval of a PUD by the Zoning Commission was also required to have the approval of the Board of Zoning Adjustment when seeking a use that would normally require approval from the BZA as a special exception.

The Zoning Secretariat referred this matter to the Corporation Counsel. By memorandum dated April 26, 1979 from Robert E. McCally, the Zoning Secretariat was advised that, under the existing regulations, BZA review would be required. The Corporation Counsel further advised that there was no bar to the Zoning Commission amending the Zoning Regulations to provide that BZA review not be required in such situations.

The D.C. Office of Planning and Development, by memorandum dated February 4, 1980 and by testimony presented at the public hearing, recommended approval of the advertised proposal because it would "remove this discrepancy and allow expeditious and comprehensive review of PUD applications by the Zoning Commission without further action by the BZA". The Commission agrees.

Samuel Scriverner, by letter dated February 13, 1980, and the Washington Board of Trade, by testimony presented at the public hearing, supported the proposal.

Harriet Hubbard, by testimony presented at the public hearing, did not object to the proposal but raised one issue regarding the question of whether the Zoning Commission should apply the same review standards for said applications as does the BZA when reviewing applications for special exceptions.

The Executive Director of the Zoning Secretariat by memorandum dated March 6, 1980, reported that Section 8 of the Zoning Act authorizes the Board "to hear and decide, in accordance with the provisions of the regulations adopted by the Zoning Commission, requests for special exceptions...." Jurisdiction for the Board to rule upon special exceptions is thus conferred by the Zoning Commission. If the Commission chooses, by regulation, to remove a class of special exceptions from the jurisdiction of the Board, the standards that the Board would have used need not and should not be used by the Zoning Commission. Instead, the standards of the planned unit development process, as set forth in Section 7501, govern all aspects of planned unit developments, including the uses proposed. In addition, the review criteria established by the PUD process in most cases are as stringent, if not more stringent, than the criteria for a special exception. The Commission, therefore, does not believe it is necessary or appropriate for the Commission to adopt the standards normally applied by the BZA.

The Commission notes that a major part of the intent and purpose of revising the PUD process was to eliminate the BZA review because the procedure was an extremely lengthy process. The Commission further did not intend to extend authority to the BZA to, possibly, modify decisions of the Zoning Commission in PUD applications.

No Advisory Neighborhood Commission participated at the public hearing or submitted a statement before the closing of the record.

The proposed action was referred to the National Capital Planning Commission (NCPC) under terms of the District of Columbia Self-Government and Governmental Reorganization Act. The NCPC reported that the proposed amendment to the Zoning Regulations eliminating Board of Zoning Adjustment review of Planned Unit Development applications requiring approval as special exceptions would not have an adverse impact on the functions of the Federal Establishment or other Federal interests in the National Capital Region.

The Commission finds that the proposed amendments are in the best interest of the District of Columbia and are consistent with the intent and purpose of the Zoning Regulations and Zoning Map, and the decision of the Commission in revising the PUD regulations as set forth in Order No. 251. The Commission, therefore, hereby orders that the Zoning Regulations be amended, adding a new Paragraph 7501.48 to read as follows:

7501.48 Notwithstanding the other prerogatives of the Zoning Commission in approving uses in planned unit developments, the Zoning Commission reserves the option to approve any use which is permitted as a special exception and which would otherwise require the approval of the Board of Zoning Adjustment. Approval of the BZA shall not be required for any such use approved by the Zoning Commission, and the Zoning Commission shall not be required to apply the special exception standards normally applied by the BZA.

Vote of the Commission taken at the public meeting held on March 13, 1980: 4-0(Walter B. Lewis, Ruby B. McZier, and Theodore F. Mariani, to approve and George M. White, to approve by proxy - John G. Parsons, not voting not having participated in the case)



THEODORE F. MARIANI
Chairman
Zoning Commission



STEVEN E. SHER
Executive Director
Zoning Secretariat

This order was adopted by the Zoning Commission at its public meeting held on May 8, 1980 by a vote of 5-0(Ruby B. McZier, Walter B. Lewis, Theodore F. Mariani, John G. Parsons and George M. White to adopt).

In accordance with Section 4.5(e) of the Rules or Practice and Procedure before the Zoning Commission of the District of Columbia, the amendment to the Zoning Regulations is effective on 23 MAY 1980.