

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 362

CASE NO. 81-11

January 25, 1982

Pursuant to notice, a public hearing was held by the District of Columbia Zoning Commission on October 15, 1981. At that public hearing the Zoning Commission considered a proposal, initiated by the Commission, to amend the text of the Zoning Regulations of the District of Columbia. The hearing was conducted under the provisions of Chapter 5 of the Rules of Practice and Procedure before the Zoning Commission.

The proposed amendments would repeal the Sectional Development Plan (SDP) provisions of the Zoning Regulations, the definition of SDP in Section 1202, and the implementation provisions for SDP's in Section 7502. The preamble to the CR District provisions would be revised by the amendment to exclude a reference to the SDP regulations.

The first SDP-type regulation was introduced in 1965 as an amendment to Article 75 of the Zoning Regulations. The amendment was designed to permit government agencies to sponsor planned developments under the provisions of Article 75 in the same manner as private sector applicants. Although not restricted to any single area of the city, the impetus for the amendment arose from the desire to implement a portion of the then recently created Pennsylvania Avenue Plan. On February 15, 1966 the Zoning Commission, in accordance with recommendations from the National Capital Planning Commission (NCPC), approved the first and only SDP. This case involved all property in Square 322 bounded by 11th, E and 12th Streets, and Pennsylvania Avenue, N.W., including the then proposed Presidential Building.

No further SDP's were proposed until October of 1973 when the NCPC recommended an SDP for the Friendship Heights area. The Plan was a culmination of several years of work by Federal, District and Maryland public agencies, community groups and property owners. After receipt of the Plan by the Zoning Commission on October 9, 1973, an emergency order was adopted instituting the zoning map amendments contemplated in the Friendship Heights SDP. With some

modifications, the zoning map amendments were adopted permanently on February 12, 1974.

In September of 1974, the Zoning Commission amended Article 75, creating a new Section 7502 for Sectional Development Plans. This amendment separated the SDP process from the Planned Unit Development process and the SDP has remained unchanged to date.

On December 14, 1978 by Order No. 250, the Zoning Commission determined that it would not adopt the proposed SDP for Friendship Heights. The Commission noted that:

1. The SDP proposed was essentially a planning document, not a zoning document. Overall zoning changes prompted by the Friendship Heights planning process had already been made. The proposed SDP contained provisions which were beyond the authority of the Zoning Commission to act upon, including proposals for street and alley closings, and capital improvements.
2. There was no specific case before the Zoning Commission which the proposed plan would affect. It would be inappropriate for the Commission to adopt guidelines for potential future zoning cases when the complete record of specific facts concerning those cases was not before the Commission.
3. The proposed plan would not be binding upon property owners, area residents or a future Zoning Commission, but would be purely advisory. The Commission stated it would not render advisory opinions in advance of specific cases being presented.
4. At the time the entire SDP concept was originally initiated, the District had no authority to do local planning, and the SDP regulations was seen as a method to provide an orderly local process for land-use planning. Adoption of the Home Rule Act has given to the District, and specifically to the Mayor and the City Council, the authority to prepare and adopt a comprehensive plan and all its elements. The Zoning Commission stated that it would not interfere with the prerogatives of the Mayor and Council to do local planning. The Commission further believed that it would be presumptive of the powers of the Mayor and Council for the Zoning Commission to recommended plans to those bodies.

The Office of Planning and Development (OPD) by memorandum dated September 29, 1981 and by testimony presented at the public hearing, recommended that the SDP provisions of the Zoning Regulations be repealed. The OPD noted that the SDP regulations are basically a mechanism for area planning, and that the Zoning Commission's authority does not encompass the preparation of plans for the city, except as such plans are part of the Zoning Map and Regulations. The OPD was of the opinion that the existence of what is basically a planning framework in the Zoning Regulations is inappropriate.

The Commission notes that, as originally adopted in 1965, the SDP provisions of the Zoning Regulations were designed to permit government agencies to sponsor Article 75-style proposals. As amended in 1974 the present SDP provisions expanded upon the original premise by outlining a sophisticated framework for small area or neighborhood planning. The Commission believes that the SDP regulations have evolved into an unnecessary, complex and redundant mechanism which, at a minimum, parallels and may be in conflict with the authority of the Mayor and the City Council.

The Commission also notes that the SDP process has not been effectively used in the seven years it has been in effect. The Regulations also fail to account for the change in the role of the city regarding planning responsibilities since the enactment of the Home Rule Act.

The Commission believes that the existing legislative-type procedures currently available under the Rules of Practice and Procedure afford individuals the opportunity to participate in, develop, and resolve small-area planning and zoning objectives, as demonstrated in Cases No. 76-24 (Dupont Circle), 77-30 (Anacostia), 77-33 (East Washington Railroad), and 78-24 (Takoma). Consequently, the Commission believes that a useful and effective planning and zoning process which focusses on community participation will remain in existence.

The Commission notes that beyond the issues of appropriate and statutory roles and functions, the history of the SDP process does not convincingly argue for its continuance. Square 322 is the city's only adopted SDP. Article 75 of the Zoning Regulations was amended in 1965 to incorporate SDP's to permit Planning Unit Developments (PUD) under the sponsorship of public agencies. Section 7501 (PUD) has been amended several times since 1965 and now permits public agency sponsorship of PUD's. Since the adoption of Section 7502 (SDP) in 1974, this section has never been fully utilized. The only SDP prepared under Section 7502 was for Friendship Heights; it was never adopted by the Commission.

There were no issues and concerns submitted in writing by any Advisory Neighborhood Commission.

This case was referred to the National Capital Planning Commission under the terms of the District of Columbia Self Government and Governmental Reorganization Act. The NCPC reported that the proposed amendment to the Zoning Regulations of the District of Columbia repealing the Sectional Development Plan provisions of the Zoning Regulations would not adversely affect the Federal Establishment and Federal interests in the National Capital nor be inconsistent with the Comprehensive Plan for the National Capital.

The Zoning Commission finds that the proposed amendments are in the best interests of the District of Columbia and are consistent with the intent and purpose of the Zoning Regulations and Zoning Act. Furthermore these amendments have the effect of simplifying the Regulations and of deleting inappropriate provisions thereof. The Zoning Commission, therefore, hereby APPROVES the following changes to the Zoning Regulations:

1. In Section 1202, delete the Definition of Sectional Development Plan, as follows:

"Sectional Development Plan: A set of development policies and standards adopted by the Zoning Commission after public hearing for a specific area of the District of Columbia, which forms the basis for amendments to the Zoning Map and Regulations and sets guidelines for the review and evaluation of individual applications before the Zoning Commission and the Board of Zoning Adjustment."

2. In Sub-section 4501.1, the Preamble to the CR District, revise the paragraph labeled "d" to read as follows:

"d. Encourage flexibility in architectural design and building bulk, provided that such designs and building bulk are compatible and harmonious with adjoining development over the CR District as a whole."

3. Delete the entire existing Section 7502, regarding preparation, consideration and adoption of Sectional Development Plan's, as follows:

SECTION 7502 SECTIONAL DEVELOPMENT PLANS

7502.1 PURPOSES OF SECTION DEVELOPMENT PLANS. The purpose of this section is to provide an area-wide, detailed approach to the implementation of major development goals and objectives of the citizens of the District of Columbia. Sectional Development Plans are intended to be applied in areas where some change from existing conditions is appropriate in the public interest. Such plans should be developed only for areas where detailed, local area planning is required for the enhancement of the public welfare by providing the opportunity for closely coordinated development by individual property owners. Such areas may be located at uptown centers, adjacent to subway stations, and other locations where development goals and objectives have not been adequately realized. The size of a Sectional Development Plan area shall be determined in the planning process for such an area. The boundaries of the Sectional Development Plan may be drawn so as to include areas not necessarily intended for future development or redevelopment but which could serve as compatible development transitions between surrounding neighborhoods and the project area. The procedures and standards established herein are intended to permit, with Zoning Commission approval, zoning in accordance with planning directed toward goals and objectives concerned with social, economic, land use, circulation, environmental, historic preservation, and aesthetic enhancement of the area through feasible measures involving specific programs in the public sector and increased awareness of these programs in the private sector.

A Sectional Development Plan shall furnish a framework, based upon detailed planning consideration, which should be a substantial influence on questions involving special exceptions, variances, Planned Unit Developments, Zoning Map amendments, and general development. A Sectional Development Plan should further the provision of improved living and working, recreation and transportation conditions within the area and in that area's relationships to other parts of the city.

7502.2 COMPONENTS OF SECTIONAL DEVELOPMENT PLANS. The components of a Sectional Development Plan shall be as follows:

7502.21 A statement of the overall goals which the plan intends for the plan area and the specific objectives which should be used to achieve such goals. The relationships of these goals to overall development goals of the District of Columbia and to the comprehensive plan should be clearly stated. Public

sector and private sector objectives should be clearly related to elements of the Sectional Development Plan to indicate how such elements will achieve the stated objectives. Such goals and objectives shall be specific enough to provide guidance and direction to the Zoning Commission, Board of Zoning Adjustment, private property owners and the public at large in the preparation and evaluation of applications for Planned Unit Developments, special exceptions and other requests before appropriate zoning authorities.

7502.22 A map showing the existing zoning of the plan area and surrounding adjacent areas.

7502.23 Proposed amendments to the Zoning Map or Regulations resulting from items done under Paragraph 7205.24.

7502.24 Supporting data should include the following where appropriate and applicable:

7502.241 Social and economic characteristics of existing and projected populations including densities; age and sex profiles; individual family and household housing needs and housing payment levels; school grade level loads; income levels; employment and unemployment; minority status; health and physiological handicaps; and car ownership or possession.

7502.242 Analysis of existing and proposed land and building uses; building and structure heights; densities, numbers, sizes and types of housing units; all building use densities including FAR's and percents of lot occupancy; lot lines, building outlines, and other structures outlines; public rights-of-way, street curb-to-curb outlines, other pavement and court outlines; location of all public facilities and utility structures.

7502.243 Analysis of existing and proposed traffic and circulation including traffic capacities of: vehicular roads, mass transportation, pedestrian paths and sidewalks, bicycle paths and any other circulation systems; detailed trip generation rates, street and alley modifications, parking requirements for all land uses; local and through traffic volumes and routes for all circulation systems; particular attention should be given to solution of problems created where two or more of these systems join, intersect or meet any land or building use.

7502.244 Environmental assessments of existing and proposed development including effects on: water and sewer capacities; air quality and noise from commercial, industrial and traffic sources; water drainage, seepage and soil erosion from buildings and other hard surfaces; slope treatments and planting areas; provisions for protection from wind and rain and protection from or exposure to, sunlight and day light; general aesthetic qualities in terms of public spaces, landscaping, and open space treatment, building forms and set backs, control of outdoor advertising; controls of other man-made and natural features.

7502.245 The provisions for protection and enhancement of buildings, structures or places of historic, architectural or cultural merit either as included on the National Register of Historic Places or in the District of Columbia Inventory of Historic Sites or as may be further defined in the process of preparing the plan.

7502.246 Reports on the feasibility of the plan including its social, environmental and economic feasibility. The social feasibility shall be evaluated on projected changes in social and economic characteristics of the population such as those listed in 7502.241. The environmental feasibility shall be evaluated on projected changes in environmental factors such as those listed in 7502.244. The economic feasibility may be on a cost-benefit analysis basis showing projected costs such as capital improvements, public services, public utilities and loss of tax revenues for the area, and projected benefits such as increase tax revenues, savings in maintenance costs, and economies of service, operations and budgeting arising from such a plan. While such an economic study should be concerned primarily with public costs and benefits, effects on the private sector may also be evaluated. Private and public costs and benefits, where evaluated, should be clearly identified and defined.

7502.247 The relationship of a proposed Sectional Development Plan to the comprehensive plan.

7502.248 Estimates of proposed capital expenditures for public improvements in the plan area should be prepared and submitted.

7502.249 A list of specific, related programs to be adopted by other government agencies which are required to fully implement the plan and adequate explanations of how each

program relates to the objectives and other elements of the plan.

7502.2410 A timetable for all projections and programs contemplated in Sub-paragraphs 7502.241 through 7502.249 above. All projections and programs done should be on the basis of equal or compatible time spans to allow direct comparisons to be made.

7502.2411 Any other information necessary to fully explain or support the proposals contained in the plan.

7502.3 INITIATION AND PREPARATION OF SECTIONAL DEVELOPMENT PLANS

7502.31 Sectional Development Plans may be initiated and prepared by the National Capital Planning Commission or the District of Columbia Office of Planning and Development either separately or jointly. The agency primarily responsible for the Sectional Development Plan shall be designated as the "preparing agency". Any citizen, property owner, group of citizens, or group of property owners may petition the District of Columbia Office of Planning and Development or the National Capital Planning Commission to propose to the Zoning Commission a plan which the citizens or property owners have prepared. Such petition may also be addressed directly to the Zoning Commission which may, at its discretion, request one of the above agencies to assume responsibility for such a plan. The agency, after ascertaining that a representative Community Advisory Group (see Sub-section 7502.4) has been formed for the Sectional Development Plan area, may agree to such a petition, and shall then have the same responsibilities regarding that plan as if it had initiated the proposal.

7502.32 The preparing agency shall be responsible for designating the boundaries of the Sectional Development Plan area. If the plan area, as designated, contains 50% or more land which is not federally owned, the District of Columbia Office of Planning and Development shall become the preparing agency. If the plan area contains 50% or more land which is federally owned, the National Capital Planning Commission shall become the preparing agency.

7502.33 The preparing agency shall be responsible for the preparation of the plan document itself, as well as the necessary background, supporting and supplemental information required by Sub-section 7502.2.

7502.34 Before filing a plan with the Zoning Commission, the preparing agency shall discuss and coordinate its proposals with appropriate planning, technical support, and operating agencies of the District and Federal governments and affected inter-governmental bodies.

7502.35 If, in the process of preparing a Sectional Development Plan, the preparing agency believes it is necessary to invoke emergency zoning in all or part of a Sectional Development Plan area the preparing agency may petition, the Zoning Commission on behalf of such action. If the Zoning Commission determines that the immediate preservation of the public peace, health, safety, welfare or morals require such emergency zoning as is requested by the preparing agency, the Commission shall approve the petition of such agency. If, during the 120 day period the emergency zoning is in effect, the preparing agency finds it is necessary to rezone all or part of the Sectional Development Plan area on an interim basis the preparing agency shall submit an application to the Zoning Commission for such interim rezoning, which application shall be based on a Sectional Development Plan in preparation. The Zoning Commission, in its discretion, may schedule a public hearing on the application. Alternatively, the preparing agency may petition for interim rezoning based on a Sectional Development Plan in preparation even if it does not petition for an emergency rezoning. Further, if a petition for emergency zoning is denied by the Commission, the agency may petition for interim rezoning during the remainder of the Sectional Development Plan process. Nothing in this paragraph shall be construed as prohibiting an application by the preparing agency for permanent rezoning for all or part of a Sectional Development Plan area based on a completed Sectional Development Plan at any time during a period of emergency zoning.

7502.36 If a public hearing on an application for interim rezoning under this regulation is granted, such hearing shall be held within 60 days of the date upon which such hearing was granted. Notice of such hearing shall be given in the same manner as for amendments to the Zoning Map as contained in the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia. The Commission, when conducting such hearing, may, in accordance with its rule-making powers, allow the cross-examination of witnesses where it deems necessary to verify the information presented by such witnesses.

7502.37 Within 30 days of the completion of such public hearing the Zoning Commission shall issue an order granting, denying or granting with modifications the application for interim rezoning. Such order shall be advertised in accordance with the Rules of Practice and Procedure of the Zoning Commission of the District of Columbia.

7502.38 Such interim rezoning, if granted, shall remain in effect for a period of not more than two years from the date of issuance of the order or until such time as the area is per-

manently rezoned, whichever is less. If no Zoning Commission order permanently rezoning the area or areas affected has been issued within the two year period, zoning shall revert to that which was in effect immediately preceding the order for interim rezoning.

7502.4 COMMUNITY ADVISORY GROUP

7502.41 Before preparing a plan, the preparing agency shall cause to be formed an ad hoc Community Advisory Group, to advise the agency on any proposals which may be prepared. Such Advisory Group shall be organized in the preliminary phases of the planning process.

7502.42 The membership of a Community Advisory Group shall include representatives of all elements of the community affected by a Sectional Development Plan including, but not limited to, advisory neighborhood commissions, if any, commercial and residential property owners, associations or citizens, businessmen or tenants, residential and commercial tenants and others. Refusal of any individual or representative to accept membership on an Advisory Group shall not prevent that Group from carrying out its functions.

7502.43 Each Community Advisory Group shall develop its own rules of procedure and governance, including election of officers, rules stipulating the responsibilities of membership, and the norms of decorum which shall govern its proceedings. An Advisory Group may further extend membership to any individual or representative of any element of the community as the Advisory Group shall consider appropriate.

7502.44 The Community Advisory Group shall work with the preparing agency in preparing a plan for consideration by the Zoning Commission. The Advisory Group shall serve as the principal mechanism for providing community input for a plan, and shall also serve as the principal mechanism for distributing information from the preparing agency to the community. The Advisory Group, with the preparing agency, shall provide the opportunity for all interested parties to review and discuss the proposals contained in a plan in advance of its submission to the Zoning Commission.

7502.45 The preparing agency shall provide reasonable technical and administrative support services to the Community Advisory Group and shall, after consultation with the group, prepare a Sectional Development Plan for consideration by the Zoning Commission. After the preparing agency has prepared its final proposal, the Community Advisory Group may prepare a written

statement, which may contain dissenting views, setting forth its view on that proposal.

7502.46 The Community Advisory Group and representatives of the preparing agency shall continue to monitor any reviews or referrals of a Sectional Development Plan to the National Capital Planning Commission, the District of Columbia Council or any other District or Federal agency.

7502.5 PROCESSING OF SECTIONAL DEVELOPMENT PLANS

7502.51 The preparing agency shall file a completed Sectional Development Plan and all supporting data and any additional information with the Executive Director to the Zoning Commission as part of an application for the rezoning of all or part of a Sectional Development Plan area. The preparing agency shall also file a statement documenting the meetings held and the public contacts made in accordance with Sub-section 7502.4 above, including the final report of the Community Advisory Group, a summary of any responses from citizens, property owners, or District agencies, and copies of any written responses to the proposals contained in the plan as parts of such application. In the event that the Zoning Commission finds that there has not been sufficient and meaningful community participation or adequate coordination with government agencies, the Zoning Commission may return the Sectional Development Plan to the preparing agency for additional community participation and/or agency coordination.

7502.52 The plan shall be referred to the National Capital Planning Commission for its review and comment, specifically concerning the impact of the proposed plan on the federal interests. Where the NCPC is the preparing agency, no referral to NCPC shall be required.

7502.53 The plan shall be referred to the District of Columbia Council for its review and comment. The Council, at its discretion, may consider the general policies upon which such a plan is based, and may specifically comment on any changes proposed by the plan, any capital budgeting items proposed by the plan, and any other matters within the purview of the Council.

7502.54 The Zoning Commission may refer a Sectional Development Plan to any other District or Federal agency for its review and comment.

7502.55 Reporting agencies should submit their recommendations to the Zoning Commission in writing within sixty (60) days of receipt of the proposed Sectional Development Plan from the Zoning Commission. Such period of time may be extended for an additional period of thirty (30) days upon the agreement of the Zoning Commission and the reporting agencies involved. If no comments are submitted within the time allowed, the Zoning Commission may act without such recommendations.

7502.56 No changes in the Zoning Map or Regulations proposed as the result of a Sectional Development Plan shall be adopted unless a public hearing is held. Such hearing shall be conducted in accordance with the Rules of Practice of Procedure before the Zoning Commission of the District of Columbia, provided that when such hearing is conducted in accordance with the rule-making powers of the Commission, cross-examination of witnesses may be allowed where the Commission deems it necessary to verify the information presented by such witnesses.

7502.57 After such public hearing, the Zoning Commission may adopt the statement of goals and objectives and amendments to the Zoning Regulations or Map as specified in accordance with Paragraphs 7502.21 and 7502.23. The Commission shall also issue a statement of reasons containing the supporting data for the Sectional Development Plan as specified in Paragraph 7502.24 and as it may be modified by additional considerations raised in the record of the hearings on the plan. The boundaries of an adopted Sectional Development Plan shall be clearly delineated on the Official Zoning Map.

7502.58 The Community Advisory Group and the preparing agency shall be jointly responsible for bringing to the attention of appropriate government agencies those items of the plan which cannot be implemented by the Zoning Commission. Such items shall include those listed in Sub-paragraphs 7502.247, 7502.248 and 7502.249, and any other matters necessary to implement the plan.

7502.6 AMENDMENTS TO ZONING IN SECTIONAL DEVELOPMENT PLAN AREAS

7502.61 Amendments to zoning in a Sectional Development Plan area may be proposed only by a District or Federal agency. Any citizen, property owner, group of citizens or group of property owners may petition the District of Columbia Office of Planning and Development, National Capital Planning Commission or the Zoning Commission to adopt, as its own, such a proposed amendment.

7502.62 Such amendments shall be generally subject to the procedures enumerated in Sub-sections 7502.2 through 7502.5 above as they may be modified by consideration of the proposed amendment.

7502.7 PROCEDURES FOR DEVELOPING PROPERTY IN SECTIONAL DEVELOPMENT PLAN AREAS

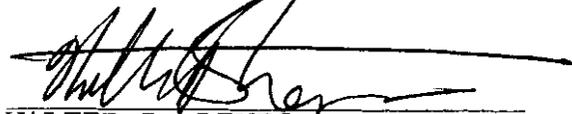
7502.71 Any property may be developed to the maximum extent allowed as a matter of right under the adopted Zone Districts. No processing of property before the Zoning Commission or the Board of Zoning Adjustment is necessary for such development unless such processing is required in these Zoning Regulations.

7502.72 All of the procedures, requirements and standards for applications for Planned Unit Developments under Section 7501, as amended by this regulation, shall be followed except that there shall be no minimum required acreage qualification necessary to file such an application.

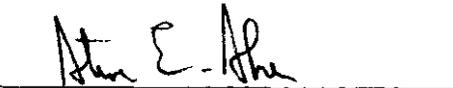
7502.8 EFFECTIVE DATE

7502.81 These Regulations will take effect on September 27, 1974. They govern all Sectional Development Plans submitted after this regulation takes effect and any Sectional Development Plan then pending, except to the extent that, in the opinion of the Commission, their application to a particular Sectional Development Plan pending when this Regulation takes effect would not be feasible or would work undue hardship or injustice, in which event the former procedure, Section 7501 of the Zoning Regulations, applies; provided, however, in any such case the Zoning Commission may adopt any provisions of these Regulations as may, in their sole discretion, be appropriate.

Vote of the Commission taken at the public meeting on November 12, 1981: 3-0 (Walter B. Lewis, Lindsley Williams, and George M. White, to approve the repeal - Ruby B. McZier and John G. Parsons, not voting, not having participated in the case).



WALTER B. LEWIS
Chairman
Zoning Commission



STEVEN E. SHER
Executive Director
Zoning Secretariat

Vote of the Commission taken at the public meeting on January 25, 1982:
3-0(George M. White, Lindsley Williams and Walter B. Lewis, to adopt -
John G. Parsons, not voting not having participated in the case and
Ruby B. McZier, not present not voting).

In accordance with Section 4.5 of the Rules of Practice and Procedure
before the Zoning Commission of the District of Columbia, these amendments
to the Zoning Regulations are effective on FEB - 5 1982.