

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 623-A
Case No. 87-4P
(Map Amendment - Capitol Point)
July 6, 1989

Pursuant to notice, the Zoning Commission of the District of Columbia held public hearings on March 17 and 24, April 7 and 14, May 12 and June 16, 1988, and March 6 and 9, 1989 to consider an application, as revised, from Riverside Associates. The application requested preliminary (first-stage) review and approval of a Planned Unit Development (PUD) and related map amendment, pursuant to 11 DCMR 2400 and 102, respectively. The hearings were conducted in accordance with the provisions of 11 DCMR 3022.

FINDINGS OF FACT

1. The application, as revised requested first-stage PUD approval and a map amendment from unzoned property to CR for Square 602 located in the Buzzard Point (identified by the applicant as Capitol Point) area of the city at 2nd, Canal, S, and Q Streets, S.W. adjacent to Fort McNair.
2. The PUD site is 348,480 square feet in land area and is vacant unimproved land.
3. By Z.C. Order No. 623, dated July 6, 1989, the Zoning Commission granted first-stage PUD approval for a mixed-use residential, and office, service and retail commercial project in the Capitol Point area.
4. In the processing of this case, the Zoning Commission determined that the applicant acquired unzoned Federally-owned land. Notwithstanding the concerns raised by the Department of the Army and the National Capital Planning Commission (NCPC), the applicant by right, is entitled to be able to use its property in a reasonable way.
5. This Commission is cognizant of the sensitivities associated with the location of the PUD site adjacent to Fort McNair. The Commission is equally cognizant of

the fact that the application in Case No. 87-4P is the first-stage of a two-stage process. Because of these factors and the findings of fact made in Z.C. Order No. 623, the Commission finds that it is appropriate and reasonable to take action on the map amendment component of Case No. 87-4P.

6. The District of Columbia Office of Planning (OP), by memorandum dated April 24, 1989, analyzed the height and setback relationship to FAR development potential for the subject site under the W-1/W-3 zone combination.
7. The Department of Army, by letter dated May 3, 1989, questioned the accuracy of the OP memorandum and offered corrected calculations.
8. The Buzzard Point Planning Association (BPPA), by letter from counsel dated May 3, 1989, indicated that the level of commercial FAR which could be achieved under the W-1/W-3 combination as a matter-of-right is 3.0. Accordingly, it contended, there is no incentive for the applicant to undertake the additional time and expense to seek PUD approval.
9. No comments on the W-1/W-3 zone combination were received from ANC-2D.
10. Based on the findings of the fact herein and in Z.C. Order No. 623, the Commission finds that the proposed base zoning on the subject site would allow the applicant an opportunity to develop, as a matter-of-right, but not to a level of development that would adversely affect the long-range development objectives for the Capitol Point area.
11. The Zoning Commission believes that the proposed amendments to the Zoning Map of the District of Columbia are in the best interest of the District of Columbia, are consistent with the intent and purpose of the Zoning Regulations and Zoning Act, and are not inconsistent with the Comprehensive Plan for the National Capital.
12. The proposed action of the Zoning Commission to apply W-1/W-3 zoning was referred to NCPC, pursuant to the District of Columbia Self-Government and Governmental Reorganization Act. NCPC, by report dated May 4, 1989, expressed the following concerns:
 - a. W-1 zoning immediately adjacent to Fort McNair would not adversely affect the Fort, provided that adequate setbacks from the Fort McNair wall could be ensured through a subsequent PUD.

- b. Without PUD controls that are responsive to security concerns as identified by the Department of the Army, matter-of-right development under the W-3 zone classification could adversely affect federal security and preservation interests.
 - c. Zoning of the site that reflects other than federal use is clearly inconsistent with Comprehensive Plan elements.
13. The Zoning Commission disagrees with the Planning Commission, for the following reasons:
- a. As to the concern about preservation, the height that would be allowed under W-3 zoning of a portion of the site, which portion is at no point less than 100 feet to the east of the Fort McNair property line, would have no adverse impact on Fort McNair, and is consistent with the views expressed by the Commission of Fine Arts.
 - b. The record does not show that matter-of-right development of the site under W-1 and W-3 zoning would present a cognizable security threat to the Fort McNair installation. The same 90-foot height is allowed as a matter-of-right under the General Industry zone that is adjacent to that portion of Fort McNair that is south of the site. Further, by Order No. 623, the Zoning Commission provides a reasonable measure of incentive for the applicant to continue to pursue the PUD process. However, the Zoning Commission believes that it has an obligation to determine the zone district classification for the site that would allow reasonable matter-of-right development, and that the W-1 and W-3 configuration is reasonable.
 - c. It would be unreasonable for this Commission to withhold action pending amendment of the Comprehensive Plan. The United States of America sold the land to the applicant, but the applicant can not use it for any purpose until it is zoned. Even after this Order becomes effective, the United States may, at its election and consistent with law, take action to return the site to federal ownership and use. It is reasonable in the meantime for the Zoning Commission to be guided by the designation, on the District of Columbia Generalized Land Use Map, of the

immediately adjacent Buzzard Point area for a mix of high-density residential use and medium-density commercial use. The W-1 and W-3 combination is not inconsistent with that designation, and, as noted, would not stand as a bar to federal ownership and use of the site.

CONCLUSIONS OF LAW

1. Zoning to W-1 and W-3 is in accordance with the Zoning Act (Act of June 20, 1938, 52 Stat. 797) by furthering the general public welfare and serving to stabilize and improve the area.
2. Zoning to W-1 and W-3 will promote orderly development in conformity with the entirety of the District of Columbia zone plan as stated in the Zoning Regulations and Map of the District of Columbia.
3. The applicant is entitled to make a reasonable use of the privately-owned land that is the subject of this Order. It is more reasonable for the Zoning Commission to determine the zone classification that is reasonable and not inconsistent with the Comprehensive Plan, than it would be to require the applicant to avail itself of the remedy of seeking use and area variances.
4. Zoning to W-1 and W-3 is not inconsistent with the Comprehensive Plan for the National Capital.
5. A zoning to W-1 and W-3 will not have an adverse impact on the surrounding neighborhood.
6. In considering its decision on this case, the Zoning Commission has accorded ANC-2D the "great weight" consideration to which it is entitled.
7. Pursuant to D.C. Code Sec. 1-2531 (1987), Section 267 of D.C. Law 2-38, the Human Rights Act of 1977, the applicant is required to comply fully with the provisions of D.C. Law 2-38, as amended, codified as D.C. Code, Title 1, Chapter 25 (1987), and this order is conditioned upon full compliance with those provisions. The failure or refusal of applicant to comply with any provisions of D.C. Law 2038, as amended, shall be a proper basis for the revocation of this order.

DECISION

In consideration of the findings of fact and conclusions of law herein, the Zoning Commission for the District of Columbia hereby orders APPROVAL of the following:

Zone from unzoned property to W-1/W-3 Square 602 located at 2nd, Canal, S and Q Streets, S.W., as shown on Exhibit No. 153 of the case record.

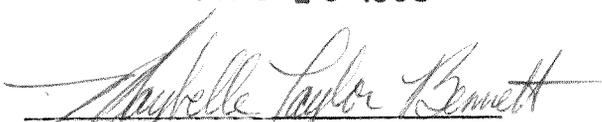
Vote of the Zoning Commission taken at the public meeting on April 10, 1989: 5-0 (Maybelle Taylor Bennett, John G. Parsons, Lloyd D. Smith and Lindsley Williams, to approve W-1/W-3 zoning; and George M. White, to approve by absentee vote).

Vote of the Zoning Commission taken at the public meeting on May 8, 1989, to affirm W-1/W-3 zoning: 4-1 (Maybelle Taylor Bennett, Lloyd D. Smith, George M. White and Lindsley Williams, to affirm W-1/W-3 zoning; John G. Parsons, opposed).

This order was adopted by the Zoning Commission at the special public meeting on July 6, 1989 by a vote of 4-1 (Maybelle Taylor Bennett, Lloyd D. Smith, George M. White and Lindsley Williams to adopt; John G. Parsons, opposed).

In accordance with 11 DCMR 3028, this Order is final and effective upon publication in the D.C. Register, that is on

AUG 18 1989


MAYBELLE TAYLOR BENNETT
Vice-Chairperson
Zoning Commission


EDWARD L. CURRY
Executive Director
Zoning Secretariat