Government of the District of Columbia
ZONING COMMISSION

ZONING COMMISSION ORDER NO. 827
Case No. 96-11
(Map Amendment @ 1300 19th Street, N.W.)
September 15, 1997

Pursuant to notice, a public hearing was held by the Zoning Commission for the District of Columbia on May 19, 1997. At that hearing session, the Zoning Commission considered an application from 1901 - 1917 N Street, Associates to amend the Zoning Map of the District of Columbia. The public hearing was conducted in accordance with the provision of Title 11, District of Columbia Municipal Regulations (DCMR), Section 3022.

FINDINGS OF FACT

1. The application, which was filed on September 13, 1996, requested a change of zoning from DCOD/SP-2 to DCOD/C-3-C for Lot 84, in Square 115.

2. The property included in this application is known as 1300 19th Street, N.W. The property is owned by the Applicant, 1901 -1917 N Street, Associates. The property, consisting of Lot 84 in Square 115, contains approximately 17,408 square feet of land area and is improved with a seven-story office building, construction of which was completed in 1979. The subject property was zoned SP in 1958.

3. The subject building was constructed pursuant to Board of Zoning Adjustment Order No. 12415 to a height of 90 feet and an FAR of approximately 5.5 pursuant to the then existing SP Zoning Regulations.

4. On February 10, 1997, the Zoning Commission, at its regularly scheduled public meeting, approved the application for a public hearing. The Office of Planning also recommended that this application be given a public hearing pursuant to its report dated January 30, 1997.

5. The applicant requested the rezoning of the subject property from the DCOD/SP-2 District to the DCOD/C-3-C District to

conform the subject site's zoning to the Comprehensive Plan Generalized Land Use Map designation of the property as "High Density Commercial".

6. The subject property, known as 1300 19th Street, N.W., is located at the northwest corner of the intersection of 19th and N Streets, N.W. The subject property is generally rectangular in shape with one corner missing and consists of 17,408 square feet of land area. The property has approximately 219 feet of frontage on N Street and eighty feet of frontage on 19th Street.

7. The property will be renovated once a decision is made on leasing to a prospective tenant. The building is well positioned to compete in the rental market but for the limitations imposed by the SP zoning. The subject property is located within the Central Employment Area.

8. The subject property is located in Square 115 which is bounded by N, 19th and 20th Streets and New Hampshire Avenue. Square 115 is substantially improved with office buildings, including high-rise buildings constructed under the C-3-C and SP Districts and lower density townhouse type structures converted to and now used as offices. The square also includes one major mixed use building, the Lauren condominium including both apartments and professional offices. The Dupont Circle Metrorail subway station is located one block north of the subject property.

9. The subject property is located within a one-block walk of several Metrobus routes on the surrounding street system which includes New Hampshire Avenue, Connecticut Avenue, 19th Street, and M Street, N.W.

10. The subject property is on the southern side of Dupont Circle, within the Central Employment Area and on the edge of the office building district. To the north are townhouse type offices along 19th Street and Sunderland Place, followed by the Heurich Mansion and three high-rise office buildings in the triangular block bounded by 19th Street, Sunderland

Place and New Hampshire Avenue. To the east across 19th Street over to Connecticut Avenue are high rise office buildings. To the south, across N Street, there is a high-rise office building at 1920 N Street followed by more high-rise office buildings along 19th and M Streets. To the west is the Lauren Condominium building (including both apartments and professional offices), chancery offices for Egypt in the triangular square bounded by 20th and N Streets and New Hampshire Avenue and then, across New Hampshire Avenue, residential further to the west. There is a hotel to the southwest at the corner of New Hampshire Avenue and N Street.

11. The DCOD/C-3-C District permits matter-of-right development, including office, retail, housing, and mixed uses to a maximum height of 90 feet, a maximum floor area ratio (FAR) of 6.5, and a maximum lot occupancy of 100 percent. Similarly, the SP-2 District permits a maximum height of 90 feet, and a maximum total FAR of 6.0, of which 3.5 FAR may be devoted to special purpose office use with BZA approval.

12. The Generalized Land Use Map of the Comprehensive Plan, dated May 1995, places the subject site in the midst of a large area recommended for "High Density Commercial" use. The existing zoning is not consistent with the Comprehensive Plan designation of "High Density Commercial." New Hampshire Avenue, which is 120 feet wide, defines the edge of the Central Employment Area and the high density commercial category at this location and, primarily due to its width, creates a physical boundary between the areas to its east and west.

13. The applicant, in testimony and in the written submission to the record, stated that the limitation on permitted tenants by the SP zone is a detriment to the site particularly in a time when the District is in fierce competition to retain businesses and their tax revenues and jobs. There has been a substantial decline in property tax revenue from the building in the last five years, to the point where the District is receiving approximately $400,000 less per year. The

Applicant is much more limited in finding potential tenants who comply with the SP requirements than would be the case if the property could be rented to any office tenant, including the General Services Administration. Consequently, many tenants must seek rental alternatives elsewhere than in an SP building.

14. The proposed zoning to DCOD/C-3-C is consistent with the land use pattern in the surrounding area. There are numerous office, retail and service uses in the area.

15. The applicant testified that a re-zoning to DCOD/C-3-C would be advantageous to the District of Columbia in protecting its job and tax base. Vacant and partially vacant buildings generate significantly less tax revenue in both real estate and sales taxes than fully occupied buildings. The lease of the major tenant in the subject building expires in 18 to 24 months, and on or before that point the applicant expects the building to be empty.

16. The surrounding public street system is operating at a level which is capable of handling the traffic demands associated with a rezoning to DCOD/C-3-C development.

17 The proposed map amendment from DCOD/SP-2 to DCOD/C-3-C would further the health, safety and general welfare of the District of Columbia. Development under DCOD/C-3-C zoning would allow a development which is consistent with surrounding uses, height and density. DCOD/C-3-C zoning of the site would allow for the development of the site in scale with the surrounding zoning and development patterns in the area. The rezoning would be consistent with sound planning and zoning principles, and development under the DCOD/C-3-C zoning would not have an adverse impact on surrounding property.

18. The existing land uses and existing zoning, described above, demonstrate that the area is essentially fully developed and has been allowed to develop with heights and densities matching those which are allowed under the DCOD/C-3-C

provisions. The 90 foot height allowed under DCOD/C-3-C is the same height now permitted on the subject property and on the property to the north, east, south, and west of the site in the existing DCOD/SP-2 and DCOD/C-3-C Districts. The 6.5 FAR allowed under DCOD/C-3-C is only 0.5 FAR greater than the 6.0 FAR permitted as a matter-of-right in the DCOD/SP-2 District for residential and/or mixed use where the SP office component does not exceed 3.5 FAR.

19. Advisory Neighborhood Commission 2B, within which the property is located, did not participate in the public hearing or submit a report into the record of the case.

20. Advisory Neighborhood Commission 2A, which includes property located on the west side of 20th Street south of N Street, was admitted as a party. The ANC did not testify at the hearing but submitted a resolution to the Commission after the public hearing recommending that the application be denied. The ANC noted the following issues and concerns:

A. The Comprehensive Plan states that commercial development in Dupont Circle has had a major impact on adjacent residential areas, and C-3-C would abolish two matter-of-right housing requirements;

B. The SP-2 zone provides a buffer between residential zones and commercial zones and minimizes the impact upon the adjacent residential areas;

C. The C-3-C District would allow an increase in height and density and allow leasing to commercial uses without a special exception hearing;

D. The applicant did not respond to the Office of Planning's public recommendation; and

E. The request for C-3-C zoning is spot zoning which jeopardizes action by the Council to modify the

Comprehensive Plan.

21. The District of Columbia Office of Planning (OP), by memorandum dated May 9, 1997, and by testimony presented at the public hearing recommended that the Commission defer a decision on the application until at least the completion of the public hearing on the text amendments in Case No. 97-7, the proposed revisions to the SP District and related map amendments. The OP noted that one of the proposed text amendments would address the principal concern of the applicant, that is to allow general office use in a building built and used exclusively as an office building. The OP indicated that the zoning applicable to the block bounded by 19th, 20th and N Streets and Sunderland Place should be left SP-2, to balance the uses allowed in the Lauren condominium, the townhouses along Sunderland Place and the subject property. The OP also noted its proposed amendment to the Generalized Land Use Map of the Comprehensive Plan to change the residential corridor along 20th Street, including the Lauren condominium, to high density residential. The OP also noted that the applicant had not justified why a short delay in being eligible to lease to general office tenants would be a significant problem.

22. In response to the issues and recommendation of the Office of Planning, the Commission finds as follows:

A. The Commission has previously found that the SP-2 District is not consistent with the high density commercial category of the Comprehensive Plan. The neighborhood ring policies of the Ward 2 Plan do not apply in this instance since the property is an existing office building and, in any event, is within the Central Employment Area and is not proposed for or intended to be developed with residential uses. There is nothing else in the Plan with respect to this property which suggest that the finding is inappropriate in this case and the Commission reiterates that finding in this application.

B. The zoning issues which may apply to the Lauren condominium are not relevant to the zoning for this property. The facts which may apply to other property do not form a basis for the Commission to determine what zoning is appropriate to the property before it in a contested case proceeding.

C. The Comprehensive Plan amendment cited by OP is only proposed and does not apply to this site. The high density commercial category for this site is not proposed to be changed.

D. The timing of Zoning Commission action on legislative type rulemaking cases is likely to be substantially longer than the time to process this specific map amendment case. Even if the SP text amendment case is promptly heard and voted upon as a proposed action, the record in recent text amendment cases indicates that it may be a year or more before final action is taken.

E. The lead time necessary to negotiate a lease and renovate the building drives the applicant's need to make decisions on marketing the building to account for the vacancy projected to occur in the next two years.

23. In response to the issues and concerns of ANC 2A, the Commission finds as follows:

A. The subject application would result in no loss of housing stock. The subject property is already developed with an office building constructed in 1979.

B. The SP-2 District does not require housing to be constructed as a matter-of-right. Housing is permitted up to a maximum of 6.0 FAR, but is not required. At the time the existing office

building was constructed, the maximum FAR for offices was 5.5.

C. At the subject location, the SP-2 zone is already developed almost exclusively with offices. The subject property is improved with an office building, and the only building in Square 115 not used primarily for offices is the Lauren condominium to the west of the subject site. The Lauren did not object to the subject rezoning.

D. The proposed C-3-C District permits the same height, a maximum of 90 feet, as the existing SP-2 District. The difference in the maximum permitted density between SP-2 and C-3-C is only 0.5 FAR, and the existing office building is already constructed to an FAR of 5.5. There is no discernible difference in impact between the types of offices permitted in SP-2 and the general office uses permitted in C-3-C. Allowing general office use, as well as retail and service uses also permitted by C-3-C on this site, would be no different than what is permitted (or proposed to be permitted by the Office of Planning) for the other three corners of the intersection of 19th and N Streets, N.W.

E. The applicant responded directly at the public hearing to the issues and recommendation of the Office of Planning.

F. The OP proposal to amend the Generalized Land Use Map of the Comprehensive Plan applies to properties along 20th Street and not to the subject property. There is no amendment now pending which would change the land use category applicable to this property. Action on this application would have no impact on any action the Council might take with respect to amendments to the Comprehensive Plan.

G. The rezoning of this property to C-3-C would not constitute spot zoning. The property would abut other property zoned C-3-C across 19th and N Streets.

24. The proposed decision of the Zoning Commission was referred to the National Capital Planning Commission (NCPC) under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. NCPC, by report dated September 4, 1997, found that the proposed map amendment would not adversely affect the Federal Establishment or other Federal interests in the National Capital, nor be inconsistent with the Comprehensive Plan for the National Capital.

CONCLUSIONS OF LAW

1. Rezoning to DCOD/C-3-C 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. Rezoning to DCOD/C-3-C 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. Rezoning to DCOD/C-3-C is not inconsistent with the Comprehensive Plan for the National Capital.

4. Rezoning to DCOD/C-3-C will not have an adverse impact on the surrounding neighborhood.

5. In considering its decision on this case, the Zoning Commission notes that ANC 2B did not participate in the case.

6. The Zoning Commission has accorded to ANC 2A the "great weight" to which it is entitled, but for the reasons set forth in this order, does not agree with the recommendation of the ANC.

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 with the provisions of D.C. Code, Title 1, Chapter 25 (1987), and this order is conditioned upon full compliance with those provisions. The failure or refusal of the Applicant to comply with any provisions of D.C. Law 2-38, 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 set forth herein, the Zoning Commission for the District of Columbia hereby orders **APPROVAL** of a change of zoning from DCOD/SP-2 to DCOD/C-3-C for Lot 84 in Square 115.

Vote of the Zoning Commission taken at the public meeting on June 9, 1997: 3-0 (Herbert M. Franklin, Maybelle Taylor Bennett and John G. Parsons, to approve, Jerrily R. Kress, not having participated in the case).

This order was adopted by the Zoning Commission at its public meeting held on September 15, 1997, by a vote of 3-0: (John G. Parsons, Herbert M. Franklin and Maybelle Taylor Bennett, to adopt, Jerrily R. Kress, not voting, not having participated in the case).

In accordance with 11 DCMR 3028.8, this order is final and effective upon publication in the D.C. Register; that is, on OCT 10 1997.

MAYBELLE TAYLOR BENNETT
Chairperson
Zoning Commission

MADELIENE H. DOBBINS
Director
Office of Zoning

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