

Government of the District of Columbia
ZONING COMMISSION



ZONING COMMISSION ORDER NO.846
Case No. 97-13
(Map Amendment @ 1901 9th Street, N.W).
May 11, 1998

On August 25, 1997, the Office of Zoning (OZ) received an application from Palmer W. Jackson, Jr., requesting the Zoning Commission for the District of Columbia to amend the Zoning map of the District of Columbia. The application requested zoning change for Lot 800 in Square 393 from R-4 to Arts/C-2-B.

The subject property is bounded by 8th Street to the east, 9th Street to the west, Florida Avenue to the north, and T Street, to the south. It contains 1,887 square feet of land area.

The applicant indicated that the property was purchased as a C-M-1 zoned property. He applied and obtained a renovation permit based on the C-M-1 zoning. He was unaware that the zoning of the site had been changed to residential. The applicant seeks the current change of zoning from R-4 to Arts/C-2-B to enable the tenants of the building to obtain Certificate of Occupancy (C of O) for continued commercial use of the property.

Pursuant to 11 DCMR3011.1 and by memorandum dated October 1, 1997, the OZ referred the application to the District of Columbia Office of Planning (OP) for a preliminary report and recommendation about whether the application had sufficient merit to warrant authorization of a public hearing.

By memorandum (preliminary report), dated December 30, 1997, OP recommended that the application be denied without a public hearing. OP, in partial justification of its recommendation, stated as follows:

1. The Generalized Land Use Map of the Comprehensive Plan designates the northern half of Square 393 for mixed-use moderate density residential and moderate density commercial use. It is also included in the Uptown Arts Special Treatment Area which reflects the purpose of the Uptown Arts Mixed Use Overlay zone district. The site at 1909 9th Street is in the residentially designated portion of the square.
2. The Uptown Arts-Mixed Use (Arts) Overlay District was put in place to eliminate

inconsistencies between the Comprehensive Plan and the zoning for the 14th and U Street areas. The Comprehensive Plan map designation of mixed use residential and commercial (encouraging arts use) along U Street and Florida Avenue, and the designation generally of rowhouse residential away from that corridor, is consistent with the goals of the plan. The Comprehensive Plan encourages pedestrian activity, provides for an increased presence of the arts, expands business and job opportunities, expands the area's housing supply and encourage adaptive reuse of older buildings.

3. The zoning line between residential and mixed residential and commercial was drawn to reflect the aforementioned objectives. The previously existing C-M-1 zoning the area allowed a mixture of industrial and commercial uses to be established separately from the main commercial corridor. Such uses do not typically contribute to the quality and stability of residential living, and the C-M-1 zoning did not even allow new residential uses.
4. To rezone the subject site would effectively result in a "Spot Zoning". The Arts/C-2-B zoning to the north is separated from the subject site by four properties zoned R-4. While the property directly across the alley to the east is zoned Arts/C-2-B, to extend that zoning to 1909 9th Street would gerrymander the zone line into a neighborhood, which has, been designated in the Comprehensive Plan for residential use and reuse. It would also surely lead to the eventual commercial rezoning of the four residentially zoned properties to the north.
5. As an alternative, the applicant may seek special exception relief from the Board of Zoning Adjustment (BZA) for a special commercial use.

On January 12, 1998, at its regular monthly meeting, the Zoning Commission for the District of Columbia considered the application to determine whether to authorize the scheduling of a public hearing. The commission also considered OP's preliminary report. The commission deferred the case to February 9, 1998, meeting to allow OP to submit additional information on the case.

By a letter dated January 26, 1998, the applicant challenged the OP recommendation on the grounds that it discussed the wrong property. The applicant's letter stated that the OP report failed to address the emotional and economic hardship suffered by the applicant because of the R-4 zoning of the property. It failed to address the incomplete and misleading occupancy characteristics and zoning designation of properties on both sides of the 1900 block of 9th street NW and the conspicuous absence of "factually telling" pages of Z.C. Order No. 632 for the Uptown Arts - mixed use overlay.

In response to the Commission's request, the OP submitted a supplemental preliminary report dated January 27, 1998. The report addressed the applicant's complaints of

incorrect property identification, the omission of page 10 of Z.C. Order No.632 and the uses and activity along the 9th street frontage not being entirely accurate.

The OP in the supplemental report also captioned revised preliminary report correctly identified the subject property and corrected omission pointed out by the applicant. The OP reaffirmed its report and recommendation that the commission not schedule the case for a public hearing.

The OP added that the rezoning the subject site by itself would result in a "spot zoning" As an alternative, the OP stated that the applicant may seek special exception relief from the Board of Zoning Adjustment (BZA) for special commercial use or organize the neighboring property owners and petition the Zoning Commission for a rezoning to C-2-B. The rezoning petition would be for the 190 feet frontage of U and 9th Streets, irrespective of the difficulty in establishing residential uses along 9th Street frontage which grand-fathered commercial uses and the commercial character currently predominating in the area.

On February 9, 1998, at its regular monthly meeting, the Zoning Commission considered the supplemental and revised OP report. The Commission evaluated the additional information introduced into the record, and reconsidered the application to determine whether it merits scheduling for a public hearing based on the additional information.

The Commission was not persuaded by the reasons advanced by the applicant for requesting a public hearing on the case and approval of the application.

The Commission noted that there was no specific reason for the 1990 zone boundaries as they existed. Nevertheless, the Commission acknowledged that the boundaries were apparently drawn to encourage new residential and protect existing residential uses, and to encourage in-filling and making viable the substantial amount of economically zoned land along the 14th and U Streets corridor.

The Commission concurs with the OP rationale that the rezoning of the site by itself would constitute a spot zoning.

The Commission believes that the two alternative proposals suggested by the OP; that is, an application to Board of Zoning Adjustment (BZA) for a Special Commercial use or a petition for a rezoning to C-2-B supported by the Advisory Neighborhood Commission (ANC) 1B would be a better approach in dealing with the nonconformity of the property in question.

The Commission furthers believes that the application, as filed, does not warrant a public hearing.

Z.C. ORDER NO. 846

CASE NO. 97-13

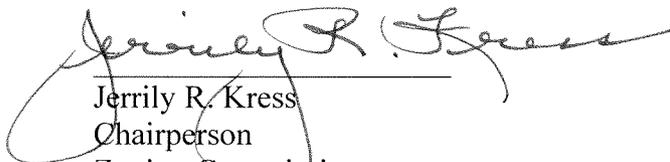
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Upon consideration of the reasons set forth herein, the Zoning Commission for the District of Columbia hereby DENIES the application in ZC Case No. 97-13 without a public hearing.

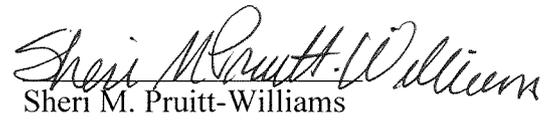
Vote of the Zoning Commission taken at its regular monthly meeting on January 12, 1998, 4-0 (John G. Parsons, Maybelle T. Bennett, Jerrily R. Kress, Herbert M. Franklin, to deny without a public hearing).

This order was adopted by the Zoning Commission at its public meeting on May 11, 1998 by a vote of 3-0: (Herbert M. Franklin, John G. Parsons, and Jerrily R. Kress, to adopt – Anthony J. Hood and Angel F. Clarens abstained)

In accordance with 11 DCMR 3028 this order is final and effective upon publication in the DC register; that is on, JUN 5 1998



Jerrily R. Kress
Chairperson
Zoning Commission



Sheri M. Pruitt-Williams
Interim Director
Office of Zoning

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