

# Government of the District of Columbia

## ZONING COMMISSION



### ZONING COMMISSION ORDER NO. 859-A

Case No. 98-5C

#### (Consolidated Planned Unit Development and Map Amendment at Alabama Avenue, S.E. - SDA)

January 11, 1999

By Zoning Commission Order No. 859 in Zoning Commission Case 98-5C, the District of Columbia denied the application from the Allegheny East Conference of Seventh-Day Adventist (SDA) and Dupont Park Seventh-Day Adventist Church, (together or individually) the applicant. The applicant requested consolidated review and approval of a planned unit development (PUD) and a related amendment to the Zoning Map of the District of Columbia, pursuant to Chapter 24 and Section 102 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning.

The application, filed on March 3, 1998, requested a consolidated review and approval of a PUD and a related map amendment from R-2 to R-5-A for Parcel Nos. 201/100, 201/122, 201/127, 201/200, and a portion of 201/215 in Square 5517 located at the intersection of Alabama Avenue and Q Street, S.E. The application requested a consolidated review and approval of a PUD in conjunction with a map amendment, for the parcels of land.

Pursuant to 11 DCMR 3028.8, Zoning Commission Order No. 859 became final and effective on November 20, 1998.

Pursuant to 11 DCMR 3029.5, counsel for the applicant, by letter dated December 3, 1998 filed a motion for reconsideration of Zoning Commission Order No. 859. The applicant alleges that the evidence of the record strongly support a favorable decision based on the merit of the case. The motion further advanced the following reasons in support of reconsideration of the Commission's decision:

1. The Office of Planning (OP) by report dated June 29, 1998, and through testimony at the public hearing recommended that the Commission approved the application.
2. Commissioner Kress who was an active participant in the Commission's deliberations in the previous SDA application for the site should be allowed to read the record of the case and to participate in its final decision.
3. The final decision (Order 859) published November 20, 1998, detailed much of the written and verbal testimony of the applicant that favors approval of the application but the findings of fact and the conclusion reached by the Commission are at variance with these testimony and evidence of the record.

4. Findings of fact Nos. 13 through 28, and 32 support an entirely different conclusion of law. The applicant urged the Commission to reconsider its decision.

On December 14, 1998, at its regular monthly meeting, the Commission considered the motion for reconsideration of its decision in Zoning Commission Order No. 859. The Commission determined that there is no basis for rehearing or reconsideration of its decision.

The Commission indicated that even if something has changed in the neighborhood since the Commission issued its final decision on November 20, 1998, that would not constitute a basis for reconsideration of the Order. Pursuant to 11 DCMR 3029.4 , the Commission may not consider any application within one year of its denial. With regards to the reasons in which the applicant based its motion for reconsideration, the Commission stated the following:

1. While the OP reports are intended to assist the Commission in making decisions it is not mandatory that the Commission concur with OP's recommendations. The Commission's decision is based on the entire record of a case.
2. The Commission had the required quorum when it decided the case, and voted 3-1 to deny the application. Commissioner Kress reading of the record and participation in the decision would not change the outcome of the vote.
3. The referenced findings of fact Nos. 13 through 28, and 32 are the testimony and positions of the applicant. However, the findings were not able to convince the Commission that the concerns of the opposition were adequately addressed and that the project would not result in spot zoning or be in disharmony with the character of the neighborhood.
4. The Commission concurred with the testimony and position of the National Park Service (NPS), Advisory Neighborhood Commission (ANC)-7B, and some area residents that the project will not promote orderly development in the neighborhood , and it would be inconsistent with the Comprehensive Plan.
5. The Commission only reconsiders its decision when there are substantive and new issues be considered in a motion that were not available at the time of the hearing. Accordingly, the Commission denied the motion for reconsideration and/or rehearing of Order No. 859 in the Zoning Commission Case No. 98-5C.

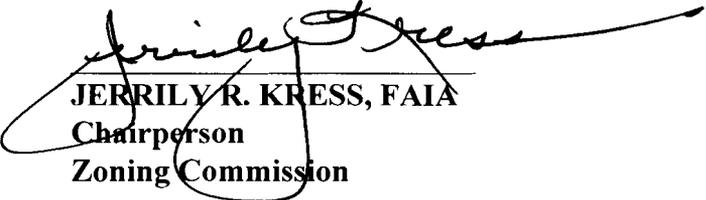
Vote of the Commission taken at the regular public meeting on December 14, 1998: 3-1 (John G. Parsons and Anthony J. Hood, to deny, Angel F. Clarens to deny, by absentee vote - Herbert M. Franklin, opposed - Jerrily R Kress, not voting, having not participated).

Z.C. ORDER NO859-A  
CASE NO.98-5C  
PAGE 3

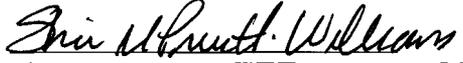
This Order was adopted by the Commission at its public meeting on January 11, 1999, by a vote of 3-1(Angel F. Clarens, Anthony A. Hood, and John G. Parsons, to adopt – Herbert M. Franklin, opposed, and Jerrily R. Kress, not Voting, having not participated in the case.)

In accordance with 11 DCMR 3028.8, this final order is final and effective upon its publication in the D.C. Register that is on \_\_\_\_\_,

FEB 12 1999



JERRILY R. KRESS, FAIA  
Chairperson  
Zoning Commission



SHERI M. PRUITT- WILLIAMS  
Interim Director  
Office of Zoning

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