

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 863-A Case No. 97-6(I) (Chain-Bridge Road/University Terrace Overlay Zone Boundary Extension) June 14, 1999

Pursuant to notice, the Zoning Commission for the District of Columbia held a public hearing on January 28, 1999. The Commission considered extending the boundary of the Chain Bridge Road/University Terrace (CB/UT) Overlay District to include Lots 21, 23, 28, 907, and 947 in Square 1426. The public hearing was conducted in accordance with the provisions of 11 DCMR 3021.

On May 18, 1998, the Zoning Commission held a public hearing to consider Z.C. Case No. 97-6. The Chain Bridge Road/University Terrace Overlay District. The petitioner in this case requested the Commission to amend the Zoning Regulations and Map of the District of Columbia by mapping and adopting a tree and slope protection (TSP) overlay, Z.C. Order No. 863.

At that hearing session, issues arose regarding the appropriateness of the CB/UT overlay boundary. The Commission requested the Office of Planning (OP) to respond to the boundary issue by July 20, 1998.

By memorandum dated July 20, 1998, the OP responded to the Commission's request and recommended that properties located adjacent to the north and west of the overlay be included in the overlay. These properties include Lots 21, 23, 28, 907, 921, and 947 in Square 1426.

The Office of Planning indicated in the report that the physical characteristics, topography and the vegetation cover of the northern and western parts of the overlay are similar to those within the overlay. OP added that since the purposes of the proposed overlay are to preserve and protect large and mature trees that are essential to maintaining the character of the area, and given that there are similarities in the physical features of both areas, that the overlay boundaries be expanded to encompass square 1426. The OP report recommended that the Zoning Commission authorize a public hearing to gather community input in the case.

At the January 28, 1999 public hearing session, the Commission heard the presentation of the OP. Two property owners testified, in opposition to the CB/UT overlay boundary expansion.

By memorandum dated January 19, 1999 and through presentation at the public hearing OP reinforced its report relative to the boundary expansion issues and further stated as follows:

The land encompassed by the proposed boundaries of the Chain Bridge Road/University Terrace Overlay meets at least three, and in some places four, of the criteria in the Zoning Regulations for mapping the Tree and Slope Overlay. The land contains numerous steep slopes, often greater than 25 percent, and it slopes 250 feet overall from Loughboro Road on the north to near MacArthur Boulevard on the south. The photographs shown at the public hearing indicated that the overlay areas are characterized by stands of mature trees, with minor exceptions of fully developed lots. The area is a collection of undeveloped lots, and lots developed with additional development potential likely to result in terrain alteration and tree removal. The report stated that much of the property meets the criterion of being located at the edge of streambeds or public open spaces.

The northeastern boundary when simplified, would strengthen the overlay, if it extended all the way north to Loughboro Road at the termination of both Arizona Avenue and University Terrace. However, this extension would encompass an area adjacent to Loughboro Road which has been essentially fully developed in recent years, with few, if any, stands of mature trees remaining.

In conclusion, OP recommended that the originally advertised boundaries of the Overlay be expanded to encompass Lots 21, 23, 28, 907, and 947 in Square 1426. OP also recommended that additional notice be given to the affected property owners.

Advisory Neighborhood Commission (ANC) 3D in a letter dated, January 13, 1999, indicated its continued support for the original boundaries of the overlay. Nevertheless, the ANC had no objections to individual property owners volunteering their properties for inclusion in the overlay. The ANC requested that no property should be added to the overlay without the consent of the owner.

The affected property owners by letters introduced into the record of the case and through testimony at the public hearing indicated their opposition to extending the boundaries of the overlay to include Square 1426.

They argued that the selection of the proposed boundary extension area is arbitrary. The arbitrary extension will encompass an area adjacent to Loughboro Road which was fully developed in recent years, with few, if any, stands of mature trees remaining.

The opposition testified that the TSP is not suitable for most of the proposed extension areas because all the lots are already developed on a rectangular grid system and the existing mature trees are either yard or street trees.

They stated that the most significant criteria for TSP overlay districts are to prevent adverse impact on adjacent open spaces, parkland, stream beds, or other environmentally sensitive areas. None of the properties in the proposed boundary extension area is adjacent to stream beds, parkland or open space. The nearest parkland, open space or stream beds are all in Battery Kemble Park which is neither adjacent or adjoining to the proposed expansion area.

They testified that since the series of purposes set forth in 11 DCMR sections 1511.3 and 1565.2 are connected by the word "and" instead of "or" that all of the provisions must be satisfied or met for any property to be included in any TSP overlay. The testimony pointed out that the properties in question do not meet the provision relating to adjacent parkland, open space or stream beds.

The testimony indicated that the petitioners for the CB/UT overlay zone obtained exactly what they requested in the petition

The original overlay boundaries were a compromise reached between property owners in the area and the petitioners in a meeting convened by the petition to urge property owners in the entire area to join the overlay. The boundary was determined after some property owners indicated their unwillingness to be part of the overlay because of a variety of reasons.

The record of the case was closed at the end of the public hearing on January 28, 1999.

At its regular monthly meeting on February 8, 1999, the Commission reviewed the record of the case and heard some clarifying comments from OP.

The Commission noted that there is a lot of opposition to extending the boundaries of the CB/UT overlay district.

The Commission acknowledged that the petition which triggered the original overlay was initiated by the Chain Bridge Road/University Terrace Preservation Committee, a neighborhood organization and not OP or the Office of Zoning, and the initial application did not include the proposed boundary extension area.

The Commission concurred with the ANC that property owners who object to the inclusion of their properties should not be made part of the overlay.

The Commission finds that Lots 21, 23, 28, 41, 42, 43, 907 and 921 in Square 1426 which is the target of the boundary extension does not meet all the criteria for a TSP

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overlay and that its discussion in Z.C. Order No. 863 (Case No. 97-6) protects the parkland, open space and stream beds in that area.

The Commission believes that it has accorded ANC-3D the "great weight" to which it is entitled.

The Commission also believes that the extension of the overlay will not be in the interest of the neighborhood and the District of Columbia. Accordingly, the Commission took proposed actions to deny Z.C. Case No. 97-6(I).

Vote of the Commission taken at the regular monthly meeting on January 8, 1999, to deny Z.C. Case No. 97-6(I): 4-0 (Angel F. Clarens, Anthony J. Hood and John G. Parsons, to deny, Jerrily R. Kress, to deny by absentee vote, - Herbert M. Franklin, not voting, not present).

The Zoning Commission at its regular monthly meeting on June 14, 1999 adopted this order by a vote of 4-0: (John G. Parsons, Angel F. Clarens, Jerrily R. Kress, and Anthony J. Hood, to adopt - Herbert M. Franklin not voting, not having participated in the case).

This order shall be effective upon publication in the D.C. Register on
JUL 30 1999.



ANGEL F. CLARENS

Chairman

Zoning Commission

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