

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 916 CASE NO. 98-13 (MAP AMENDMENT @ SYPHAX SCHOOL) FEBRUARY 14, 2000

Pursuant to notice, a public hearing was held by the District of Columbia Zoning Commission on January 6, 1999. At that hearing session, the Zoning Commission considered an application from Manna, Inc. to amend the Zoning Map of the District of Columbia, pursuant to Section 103 of the District of Columbia Municipal Regulations (DCMR), Title 11, and Zoning. The public hearing was conducted in accordance with the provisions of 11 DCMR 3022.

FINDINGS OF FACT

1. The applicant, Manna, Inc., is the contract purchaser of the William Syphax Elementary School building and grounds (collectively, the school and grounds shall be referred to as the property) from the District of Columbia Public Schools (DCPS) for purposes of residential development. The school has been vacant since 1992 and has been declared surplus by the DCPS Board. The property, consisting of Lot 825 in Square 653, contains approximately 88,629 square feet of land area. The property is rectangular, being approximately the western one-third of Square 653, and is improved with a two-story masonry school building with an addition. The property is eligible for national historic designation. It has been zoned R-4 since 1958. Following the hearing in this case, the Commission granted Manna's request to stay the final decision in this map amendment case for several months to allow Manna to comply with the District of Columbia Historic Landmark and Historic District Protection Act of 1978, as amended, D.C. Code § 5-1001 et seq. (1998). The Historic Preservation Review Board designated the school a historic landmark in April 1999. On September 28, 1999, the Mayor's Agent for Historic Preservation held a public hearing on Manna's applications for partial demolition, alteration, new construction and subdivision under D.C. Code Subsections 5-1002(10) and (11), 5-1004(e), 5-1005(f), 5-1006(e), and 5-1007 (1998).

2. By correspondence dated April 8, 1998, as contract purchaser of the property, the applicant was designated by the DCPS Board as its agent to file this application. The applicant requests that the Zoning Commission approve a rezoning of the property from R-4 to R-5-B in furtherance of public policies supportive of housing development.

including the Comprehensive Plan for the National Capital. (Title 10 DCMR, Chapters 1-19, as amended.) The proposed R-5-B zoning will facilitate the development of moderate-density housing for home ownership on the property. Manna's proposed project will consist of 28 new townhouses and the renovation of the original 1901 school into 8-12 condominium units.

3. The Syphax School was built in 1901 for African-American students based on plans prepared by the well-known architectural firm of Marsh & Peter. Additions to the school were constructed in 1941 and 1953. The school has a colonial revival style in red brick and terra cotta with wood trim and measures 84 by 81 feet. The property is located at Half and N Streets, S.W. It has 522.47 feet of frontage along Half Street, 173.58 feet along O Street and 157.58 feet along N Street. The land area is 88,629 square feet, or 2.03 acres.

4. The Syphax School is located in the James Creek neighborhood and is also generally in the South Capitol Street corridor. The Navy Yard Metrorail Station is located three blocks to the northeast, at Half and M streets, S.E.. The land use and zoning patterns surrounding the subject site are summarized below.

5. Abutting the property on the east are properties that front on South Capitol Street, part of a commercial-industrial strip of low-scale buildings that are part of a strip of C-M-1 zoning that extends from M to O streets, S.W. Some of the buildings are occupied with commercial and industrial uses, such as barrel fabrication and tire repair, while others are vacant. As part of Zoning Commission Case No. 96-3/89-1, this C-M-1 District, which permits a 3.0 FAR and 40-foot building height for commercial and industrial uses, has been advertised for rezoning to C-2-C, a 90-foot high, 6.0 FAR mixed use zone. Across South Capitol Street farther to the east is the Capitol Gateway area, a declining industrial area also advertised in Case 96-3 for CR zoning together with a proposed overlay zone pursuant to the Comprehensive Plan.

6. To the south of the property is a rectangular area of two city blocks zoned R-5-D, a 90-foot high, 3.5 FAR apartment house zone developed with townhouses known as Carrollsburg Square. To the west of the property is James Creek Dwellings, a public housing complex of garden apartments, row houses and two high-rise apartment buildings extending to Delaware Avenue on the west. This area is zoned R-4 except for the apartment buildings on Delaware Avenue, which are zoned R-5-B. Rowhouse or townhouse development zoned R-4 also extends to the north of the property. In this area, as a whole, the great majority of homes are rental with a limited number owner-occupied.

7. The zoning counsel for the applicant testified that the property is eligible for listing in both the National Register of Historic Places under the authority of the National Historic Preservation Act of 1966, and in the District of Columbia Inventory of Historic Sites under the District's Historic Landmark and Historic District Protection Act of 1978, D.C. Code §5-1001 *et seq.* (1999). Subsequently, all plans for the renovation and

rehabilitation of the school will require the approval of the Historic Preservation Review Board and the federal Advisory Council on Historic Preservation.

8. According to Mr. Szegedy-Maszak, approval of Manna's application is requested for the following reasons:

- a. R-5-B zoning is not inconsistent with the Generalized Land Use Map designation in the Comprehensive Plan for the surrounding area, which is primarily medium density residential. The R-5-B zone is the lowest density zone considered not inconsistent with the medium density residential designation. By contrast, the existing R-4 zone is not included in the scope of medium density residential, but is instead included in zones considered moderate density residential – a lower density classification.
- b. Both the R-5-B zoning and Manna's development of condominiums and new townhouses for affordable home ownership are in furtherance of numerous policies in the Housing Element and Land Use Element of the Comprehensive Plan.
- c. The project fulfills the major goals of the Housing Element; to support homeownership among moderate-income households, to use zoning to meet housing production goals, to make available for housing suitably located publicly owned properties that are vacant, surplus, or unused, and to encourage adaptive reuse of surplus schools and other available public buildings.
- d. The project meets major goals of the Land Use Element; to redirect public and private initiatives to neighborhoods most in need of improvement and stability, to develop neighborhood land use proposals for blighted residential areas through coordinated community and government action programs, to use zoning as a key tool to add to the housing stock, and to encourage where appropriate additional row housing and apartment development in medium density residential areas.
- e. R-5-B zoning will allow and encourage a residential development pattern on the site that is very similar to that of the surrounding residential neighborhood, which consists primarily of rowhouses and garden apartments.
- f. A map amendment is a more cost-effective and efficient zoning process than any other alternative. For example, the applicant, at the request of the Office of Planning, has executed an agreement with the Southwest Neighborhood Assembly agreeing to specific development parameters permitted in an R-5-B zone. This agreement to observe specific development parameters gives this map amendment a similar structure and type of enforcement mechanism as a PUD, without a PUD's costs in time and dollars to the non-profit applicant.

- g. Unlike R-4 zoning standards that require a special exception to construct the current site plan, the requested R-5-B zoning will provide a beneficial degree of site planning flexibility, allowing Manna to provide some on-site open space while still building 28 townhouses.
- h. The proposed map amendment to R-5-B will not create any adverse effects on the surrounding area, and will be advantageous to the city in several ways. For example, a vacant public property will be put into productive use, generating much needed tax revenue for the District. An important historic building will be appropriately restored. Affordable housing will be created in an area which desperately needs it. Traffic, parking and other impacts on public welfare and safety can be readily integrated into the community's life.
- i. The proposed restoration and reuse of the Syphax School is supported by numerous historic preservation policies in both the Federal and District of Columbia elements of the Comprehensive Plan.
- j. The requested map amendment is entirely consistent with recent, major re-zoning initiatives by the Zoning Commission, and does not constitute in any way impermissible "spot zoning".
- k. The proposed zoning will serve and implement the purposes and goals of the Zoning Regulations and the Comprehensive Plan, and will have no adverse impacts on the surrounding neighborhood.

9. George Rothman, President of Manna, testified regarding the history of Manna's involvement in the project, project funding and a description of it. According to Mr. Rothman, in late 1997, Manna was recruited by the Southwest Neighborhood Assembly, the largest civic organization in Southwest Washington. A three-year community planning process took place prior to the purchase and redevelopment of the property from a blighted abandoned building and source of community crime and other problems into affordable residential housing. According to Mr. Rothman, the Southwest Neighborhood Assembly sought out Manna to replace the original developer - the Enterprise Social Investment Corporation, a subsidiary of the Enterprise Foundation - which decided not to proceed with a project. Prior to selecting Manna, the Southwest Neighborhood Assembly, with ANC 2D's support, determined that the property should be dedicated to affordable housing, and received a \$10,000 grant from the Fannie Mae Foundation, which it used as a deposit to purchase the property from DCPS.

10. Mr. Rothman testified in response to a request from the Office of Planning, Manna signed an agreement dated September 28, 1998 with the Southwest Neighborhood Assembly, in which Manna agreed to construct 28 new townhouses on the property, and renovate the original 1901 school into 8-12 condominium units (while demolishing the 1942 and 1951 additions). It also agreed that the new townhouses would have a lot occupancy not to exceed 60 percent, a height not to exceed 3 stories or 40 feet, a minimum rear yard of at least 20 feet, and off-street parking for each dwelling unit. Mr.

Rothman stated that Manna had received a substantial grant commitment in the amount of \$985,000 from the Department of Housing and Community Development (DHCD) and another commitment of \$250,000 from the Federal Home Loan Bank of Atlanta for purchase and development of the property.

11. According to Mr. Rothman, the project is intended to bring affordable homeownership to southwest Washington, an area with a very low rate of homeownership. Mr. Rothman noted that other benefits of the project include an increased tax base, a reduction in neighborhood crime and blight, superior site and building design, and new homeowners and residents for the District and the neighborhood.

12. According to Mr. Rothman, the project enjoys overwhelming support from community and other organizations, including the Carrollsbury Friends, James Creek Resident Council and tenants, the Southwest Neighborhood Assembly, Second Baptist Church Southwest, the Washington Waterfront Association, Tiber Island Cooperative Homes, the D.C. Department of Housing and Community Development, the Federal Home Loan Bank of Atlanta, Councilmember Jack Evans, and ANC-2D.

13. Mr. Rothman described the project design and layout: Most of the new townhouses will front on the existing streets surrounding the property, i.e. N Street, O Street, and Half Street, thereby opening up the community to the neighborhood rather than creating a private enclave. This will also enable the creation of common open space in the rear for use by the new homeowners. The townhouses, many with front porches, are being designed to be compatible with the existing architecture of the neighborhood. Each townhouse will have 3 bedrooms and 1-1/2 baths as standard, will be two stories high, and are projected to be priced in the \$110,000 - \$119,000 range.

14. Nathan Gross, AICP, testified as the land use expert in support of the application. Mr. Gross testified that the proposed map amendment from R-4 to R-5-B meets the legal standard for a map amendment under D.C. Code § 5-413 insofar as it clearly does “promote the health, safety, morals, convenience, order, prosperity, or general welfare of the District of Columbia and its planning and orderly development as the national capital.” Mr. Gross also stated that the proposed map amendment meets the standard in D.C. Code § 5-414 in that it is “not inconsistent with the Comprehensive Plan for the National Capital.” Mr. Gross provided several reasons as to why this application fully complies with the legal standards for a map amendment:

- a. The requested R-5-B zoning is not inconsistent with the Generalized Land Use Map designation in the Comprehensive Plan for the surrounding area, which is primarily medium density residential.
- b. The proposed development of new rowhouses for home ownership and condominiums in the former school building is in furtherance of numerous policies in the Housing Element and Land Use Element of the Comprehensive Plan, as discussed later in this application. R-5-B zoning will foster

residential development of similar density and building types as the existing pattern of the surrounding neighborhood.

- c. The vacant school site is quite large, consisting of approximately two acres of land. The surrounding neighborhood is quite fully developed, so that this major site is the principal means by which new residential buildings and population may be added to the neighborhood. It is not unusual for large, developable sites to have zoning somewhat different from surrounding, existing development.
- d. The requested R-5-B zoning will provide a beneficial degree of site planning flexibility, specifically to provide some on-site open space while still building 28 townhouses.
- e. The applicant also considered the alternative of a planned unit development (PUD). However, problems of cost and timing make this option unworkable. The PUD process would require Manna to develop more detailed site plans before filing the zoning application, resulting in a delay of approximately six months before the zoning process could begin. Moreover, the financial feasibility of a project such as this is quite tight, even without the costs and delay of a PUD. Finally, the covenant between Manna and the Southwest Neighborhood Assembly, the DHCD grant restrictions, the Section 106 historic preservation review process, as well as any other historic landmark review, provides sufficient public control over the future use and development and is similar in binding effect to a PUD covenant.
- f. The requested R-5-B zone will also provide a transition between the commercial corridor along South Capitol Street and the remainder of the neighborhood which is primarily zoned R-4. R-5-D zoning exists immediately to the south of the subject property while there is an R-5-B District several blocks to the west. These factors negate any concerns that the proposed map amendment may constitute "spot zoning".
- g. The proposed map amendment to R-5-B will not create any adverse effects on the surrounding area, and will be advantageous to the city in several ways. First, a vacant property that could become an eyesore and a location for crime is put into productive use, including the restoration of a historic building. Second, the property is put back on the tax rolls, and will generate a significant amount of property, income and sales tax revenues for the District of Columbia. Third, the property is large enough to provide ample parking on-site, and the traffic demands on abutting streets can readily be accommodated. Vehicular activity associated with residential development of the site will likely be less than that generated by the school when it was operating as such.

15. Mr. Gross also cited numerous policies in the Housing, Land Use, and Preservation/Historic Features elements of the Comprehensive Plan that the project is consistent with or helps to carry out. Mr. Gross cited the following “major” policy of the Housing Element: Of particular importance are policies that support homeownership among moderate-income households . . . (§ 300.4). Mr. Gross found that the project is specifically targeted at and is consistent with this goal. Mr. Gross also stated that Section 301.3 is also directly relevant to this case: “Make available for housing suitably located publicly owned properties that are vacant, surplus or unused, and encourage adaptive reuse of surplus schools . . .” Mr. Gross reiterated that the Syphax School has been closed and vacant since 1992, and that the Project is precisely a positive, residential adaptive reuse of the property.

16. According to Mr. Gross, the Land Use Element also includes supportive policies for the project. Although the property itself is designated Local Public Facilities, a designation that reflects an assumption that school use will continue in use on the site, such use is no longer the case. To Mr. Gross, this designation reflects a general practice followed by the Executive and the D.C. Council of designating public facilities as such on the Generalized Land Use Map and not to provide land use guidance in the case of disposition of properties as surplus for reuse. Moreover, according to Mr. Gross, the most reasonable guidance regarding residential development on the site is the surrounding medium density residential classification, which is supportive of R-5-B zoning. Mr. Gross also testified that the project demonstrates a very effective use of former city property whose primary purpose is to add to the affordable housing stock, Section 1104.1(h) of the Comprehensive Plan: “Develop techniques and programs, including rezoning and modification of certain zoning regulations if required, for the most effective use of the District’s land to add to the housing stock, encouraging where appropriate additional row housing and apartment development”.

17. Mr. Gross also testified that the restoration of the 1901 Syphax School and its adaptive reuse as affordable homeownership housing is a major historic preservation benefit that carries out several policies from the local Preservation and Historic Features Element, including § 801.1, which states, “The preservation and historic features goal for the District is to preserve the important historic features of the District while permitting new development that is compatible with these features”.

18. Mr. Gross concluded that the proposed map amendment not only meets all of the requirements in the Zoning Regulations, but also provides the significant community benefit of adding affordable housing units in a targeted location at a time when the District is confronting substantial population loss.

19. Dr. Marc Weiss, Ph.D., a senior advisor to the Director of DHCD and immediate past president of the Southwest Neighborhood Assembly, testified in support of the project on behalf of DHCD. Dr. Weiss testified that the selection of Manna as the developer at the Syphax School was the culmination of an extensive, democratic, participatory planning process in which a substantial number of Southwest residents and

community groups were represented and intimately involved. Dr. Weiss testified that the selection of Manna as the project developer was broadly supported by the residents of Southwest, including those residing in the immediate neighborhood of the Syphax School property. Dr. Weiss stated that substantial resources were committed by the Southwest Neighborhood Assembly not only to the charrette process, the selection of the developer and initially securing the property from the D.C. Public School system, but also in assuring that the community planning process would extend to and involve as many Southwest residents and community groups as possible.

20. According to Dr. Weiss, after agreeing to purchase the property, Manna proceeded to participate in a citywide task force process sponsored by the D.C. Department of Housing and Community Development to distribute \$70 million in grant funds to a variety of meritorious community development projects. According to Mr. Rothman, Manna's project received the highest score in its task force area (the "South Capitol Street Task Force") and one of the highest on a citywide basis. As a result, Manna received a commitment from DHCD for a \$985,000 HOME Grant in order to make the project affordable to low and moderate-income families.

21. Dr. Weiss reiterated that the property was initially targeted for redevelopment by the Southwest Neighborhood Assembly, other community groups, residents, and the D.C. government because of its former prominence, its blighted condition and use for illicit activities, its importance to its neighborhood's stability and quality of life, and the positive social and economic impacts of its redevelopment on the neighborhood and southwest community at large. Dr. Weiss noted that the Southwest Neighborhood Assembly had always made the preservation and restoration of the 1901 Syphax School a firm condition of the development of the site by any developer, and that any development would be named after William Syphax.

22. Dr. Weiss also testified that DHCD would not have provided Manna its commitment of \$985,000 or help sponsor the \$250,000 grant from the Federal Home Loan Bank of Atlanta if it had any doubt about the financial viability of the project or its affordability to all DC residents. Dr. Weiss concluded that the project had the full financial support of DHCD and strong, widespread community support.

23. In response to questions from the Commission, the applicant's witnesses made the following responses:

- a. The proposed map amendment is already secured by a binding written agreement between the applicant and the community, is based on precedent, creates no new precedent as an attempt to evade the PUD process, and affords along with other public review and approval processes and the DHCD grant restrictions, adequate public control of the development on the property at least as strict as would be required under a PUD.

- b. The requested R-5-B classification is consistent with surrounding zoning classifications, especially the R-5-D classification to the south of the property, does not convey a zoning benefit to the applicant more valuable than surrounding classifications, and fully supports public purposes and policies.
- c. Despite opposition to the project by the ANC Commissioner for the single-member district where the project is located, there is widespread community and District agency support for the project. The process for selecting Manna as developer involved extensive public outreach and extensive public participation in the Southwest community.
- d. For any jobs generated by the project that will not be performed by Manna employees, James Creek and community residents will be provided special consideration.

24. In response to questions from Gottlieb Simon and Toni Cassidy from ANC 2D, the applicant and its witnesses made the following responses:

- a. In addition to the DHCD and other public financing for the project, and because of Manna's excellent reputation in providing affordable housing to DC residents, Manna has had discussions with banks, including Crestar, regarding financing of the project, has received sufficient assurances of such financing, and is in the process of receiving commitments.
- b. Without approval of the map amendment, Manna's purchase of the property will be seriously jeopardized.
- c. Manna's agreement with the Southwest Neighborhood Assembly is a binding agreement that assures appropriate development restrictions on the property and is designed to apply to any other future owners of the property.
- d. Although Manna's construction costs will be high, its mission is to provide affordable housing and the project will be affordable based on existing DHCD guidelines. DHCD will make all of its other home purchase assistance programs available to any prospective purchasers of units in the project.

25. Alberto Bastida presented the report on the project from the Office of Planning. The Office of Planning recommends approval of the map amendment. The Office of Planning considered a PUD, but recommends the map amendment because of Manna's excellent reputation in the community, the importance of the project to the community

and the city, and the consistency of the project with the economic development and housing policies of the city.

26. Mr. Bastida also testified that the Office of Planning supports the map amendment because of Manna's proposed agreement with the Southwest Neighborhood Assembly, but cautioned that the Zoning Commission could not mandate the recordation of the agreement, and the agreement itself as part of its order because such an action would amount to illegal contract zoning.

27. The agreement, between the Southwest Neighborhood Assembly and Manna, Inc., dated September 28, 1998, is included but not limited to, the following conditions:

A. The Syphax School consists of three components; the original school building constructed in 1901, an auditorium wing built in 1942, and a classroom wing built in 1954. Manna intends to demolish the two additions and renovate the remaining building consisting of 19,527 square feet into 8-12 condominiums units.

B. The existing vacant land, together with the land from the demolished buildings, will be used for the construction of a maximum of 28 single-family townhouses to be sold as fee simple properties.

C. The new townhouse development will conform in the following limitations:

1. The maximum lot occupancy will be 60 percent.
2. The height of the buildings will not exceed 40 feet or three stories.
3. The minimum rear yard will be 20 feet.
4. Off-street parking will be provided for each dwelling unit.

28. Gottlieb Simon, Executive Director of ANC-2D, reported that the ANC had voted 5 to 1 to support the map amendment on the conditions that no more density than that proposed by Manna be allowed on the site, that all housing would be sold at market rate, that some townhouses would front on M Street, S.W. and others on Half Street S.W., and that Manna would enter into an agreement with the ANC to this effect. Mr. Simon recommended a limit of 28 townhouses upon the property. He testified that the ANC did not have a copy of Manna's agreement with the Southwest Neighborhood Assembly when it voted to approve the project, but that it was a positive factor, and could be even more restrictive than any ANC agreement with Manna.

29. Ms. Toni Cassidy, ANC Commissioner from the single-member district bordering the property (ANC 2D-03) who also resides across the street from the property, testified in support of the project. Ms. Cassidy testified that the property is no longer a positive, productive resource for the neighborhood. She stated that the blighted state of, and criminal activity at the property was detrimental to the quality of life of all neighborhood residents. According to Ms. Cassidy, the project's focus on affordable home ownership is a goal shared by the neighboring residential tenants, who also want to own their units

in the future. She stated that she had seen the steady deterioration of the quality of life in the neighborhood over the past several years, and that it was her view that Manna's project would be in the best interests of the neighborhood as an important sign of the community's rejuvenation. She also testified that many neighborhood residents may decide to move elsewhere if the project is not approved, and that any alternative use of the property as a community center would be too costly and could result in another blighted site.

30. Minister Ahmed Assalaam, who filed the landmark application for the Syphax School along with the Syphax Community Center, Inc., testified that he opposed the project for a number of reasons: 1) demolition of any part of the Syphax School is contrary to the preservation purposes of D.C. Law 2-144 (the District's Historic Landmark and Historic District Protection Act of 1978, D.C. Code §5-1001 *et seq.* (1999)); 2) the property and its public mission as a school has special cultural and historical significance to African-American residents of the surrounding community; and 3) the failure of the community planning process of the Southwest Neighborhood Assembly to represent the residents and interests of the Syphax School neighborhood.

31. Minister Assalaam also testified that on January 20, 1999, the day before the applicant's hearing before the Commission, he, on behalf of Syphax Community Center, Inc., filed an application with the Historic Preservation Review Board to designate the property a historic landmark, pursuant to D.C. Law 2-144 (the District's Historic Landmark and Historic District Protection Act of 1978, D.C. Code §5-1001 *et seq.* (1999)). Minister Assalaam also requested the Commission to stay its decision pending the outcome of the historic landmark decision by the Historic Preservation Review Board.

32. Minister Assalaam made the following comments: His concerns related to the possible lack of any jobs for community residents from the project; the lack of any social service agencies in the neighborhood and the property's possible appropriateness for such agencies; the failure of the Southwest Neighborhood Assembly to adequately represent the views of his constituents; the Wiley Branton CDC is the official CDC in the area and that he had been asked to provide his development plans for the property to the CDC; and that the property was a historic site, especially because of its historic role in a predominantly African-American community.

33. Ms. Burnetta Coles, a local resident, testified against the map amendment on the grounds that the property qualifies as a historic site under the National Historic Preservation Act of 1968, 16 U.S.C. § 470, and that the project could not be built on a landmark site. She also testified that she had not been given adequate prior notice of the Commission hearing.

34. Mr. Kingsley Bryan testified against the map amendment as a member of the Amijah Garvey Institute, a local non-profit organization. Mr. Bryan testified that Manna

was not the only qualified non-profit available to develop the property, and that a community center would be an appropriate use of the property.

35. Mr. Chris Crowder, a resident of the Shaw area, testified in opposition to the map amendment. He requested the Commission to delay any decision to allow the opposition to identify and secure other sources of public and private funding for alternative uses, and that the project would not be the best use of the property. He testified that he had been in contact with a number of possible funding sources, but that he had not secured any funding.

36. In response to questions from the Commission, Mr. Bryan and Mr. Crowder provided the following responses:

- a. If the Commission could delay a decision for 3-6 months, the opposition would have an opportunity to prepare a development proposal more reflective of community interests.
- b. There are no immediate financial resources available to fund an alternative use, but there may be in the future.

37. Peter Szegedy-Maszak, counsel for Manna, provided rebuttal testimony for Manna. Mr. Szegedy-Maszak testified regarding the following:

- a. The project would be subject under D.C. Law 2-144 [(the District's Historic Landmark and Historic District Protection Act of 1978, D.C. Code §5-1001 *et seq.* (1999))] to the Historic Preservation Review Board and the Mayor's Agent's review either as eligible for listing as a local or federal landmark, or on the basis that a landmark application had just been filed for the property;
- b. That the notice and posting of notice for the Commission hearing were conducted in accordance with the Zoning Regulations;
- c. That the community selection process of a developer for the property was broadly representative and inclusive;
- d. That the issue before the Commission was not whether alternative uses might be appropriate for the property, but whether the Applicant had demonstrated by substantial evidence that the proposed map amendment meets the requirements established in the Zoning regulations;
- e. That Manna is committed to honor its agreement with the Southwest Neighborhood Assembly;
- f. That under the Zoning Regulations, Manna is not required to prove that the project is the only suitable use for the property, but that the project meets all of the legal standards for a map amendment under the Zoning Regulations;

- g. That the jurisdiction of the historic preservation review process is over the exterior of the school (and in rare circumstances, its interior design), and not over the nature or type of any use conducted in the school or on the property; and
- h. That Manna has presented substantial evidence to meet all the standards and requirements for approval of its map amendment application under the Zoning Regulations.

38. This application was referred to the National Capital Planning Commission (NCPC) under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. The NCPC, by report dated February 10, 2000, found that the proposed map amendment would not adversely affect the federal interests in the property, and would not adversely affect other federal establishments or other federal interests in the National Capital, nor be inconsistent with the Comprehensive Plan.

39. The Zoning Commission concurs with OP, ANC-2D, and others, and believes that the requested zoning of the property to R-5-B is appropriate.

CONCLUSIONS OF LAW

1. Rezoning the property to R-5-B is in accordance with the Zoning Act, by furthering the general public welfare and serving to stabilize and improve the area.
2. Rezoning to R-5-B 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 R-5-B is not inconsistent with the Comprehensive Plan for the National Capital.
4. Rezoning to R-5-B will not have an adverse impact on the surrounding neighborhood.
5. Under the Administrative Procedures Act and the requirement that a decision be supported by substantial evidence of record, there is no evidence or testimony in the record to support any decision other than approval of the application.
6. The Zoning Commission has accorded to Advisory Neighborhood Commission 2D the "great weight" to which it is entitled.
7. Pursuant to D.C. Code Section 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. Code, Title I, 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 herein, the Commission hereby orders **APPROVAL** of a change of zoning from R-4 to R-5-B for Lot 825 in Square 653.

Vote of the Commission at the public meeting held on January 10, 2000: 5-0 (Herbert M. Franklin, Kwasi Holman, Anthony J. Hood, John G. Parsons and Carol J. Mitten, to approve).

This order was adopted by the Zoning Commission at its public meeting on February 14, 2000, by a vote of 5-0: (John G. Parsons, Kwasi Holman, Anthony J. Hood, Herbert M. Franklin and Carol J. Mitten, to adopt as amended).

In accordance with 11 DCMR 3028, this Order is final and effective upon publication in the D.C Register; that is, on APR 7 2000.



ANTHONY J. HOOD
Chairman
Zoning Commission



JERRILY R. KRESS
Director
Office of Zoning