

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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 IN THE MATTER OF: :  
 :  
 HERITAGE FOUNDATION : Case No.  
 Rezoning Request for 208 : 07-01  
 Massachusetts Avenue, N.E. :  
 Square 755, portion of Lot 3 :  
 from CAP/R-4 to CAP/CHC/C-2-A:  
 :  
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Monday,  
June 4, 2007

Hearing Room 220 South  
441 4<sup>th</sup> Street, N.W.  
Washington, D.C.

The Public Hearing of Case No.  
07-01 by the District of Columbia Zoning  
Commission convened at 6:30 p.m. in the  
Office of Zoning Hearing Room at 441 4<sup>th</sup>  
Street, N.W., Washington, D.C., 20001, Carol  
J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chair
ANTHONY J. HOOD	Vice Chair
GREGORY JEFFRIES	Commissioner
JOHN PARSONS	Commissioner (NPS)
MICHAEL G. TURNBULL	Commissioner (AOC)

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN Secretary

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER  
DOUGLAS WOODS

The transcript constitutes the minutes from the Public Hearing held on June 4, 2007.

I-N-D-E-X

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1 P-R-O-C-E-E-D-I-N-G-S

2 6:33 p.m.

3 CHAIRPERSON MITTEN: Good evening,  
4 ladies and gentlemen. This is a public  
5 hearing of the Zoning Commission of the  
6 District of Columbia for Monday, June 4, 2007.  
7 And my name is Carol Mitten. And joining me  
8 this evening are Vice-Chairman Anthony Hood,  
9 and Commissioners Mike Turnbull and John  
10 Parsons.

11 The subject of this evening's  
12 hearing is Zoning Commission Case No. 07-01.  
13 And this is a request by the Heritage  
14 Foundation for approval of a map amendment for  
15 property located at 208 Massachusetts Avenue,  
16 N.E. And it's known as lot 3 in Square 755.

17 Notice of today's hearing was  
18 published in The D.C. Register on April 20,  
19 2007. And copies of that hearing announcement  
20 are available to you. And they're in the wall  
21 bin by the door.

22 This hearing will be conducted in

1 accordance with the provisions of 11 DCMR,  
2 Section 3022, and the order of procedure will  
3 be as follows: we'll take up any preliminary  
4 matters first; then we'll have the  
5 presentation of the Applicant's case; a report  
6 by the Office of Planning; the report of the  
7 affected Advisory Neighborhood Commission;  
8 then we'll have organizations and persons in  
9 support and organizations and persons in  
10 opposition.

11 The following time constraints  
12 will be maintained in the hearing: the  
13 Applicant will have 15 minutes; organizations  
14 will have five minutes; and individuals will  
15 have three minutes. The Commission intends to  
16 adhere to these time limits as strictly as  
17 possible in order to hear the case in a  
18 reasonable period of time. The Commission  
19 reserves the right to change the time limits  
20 for presentations, if necessary and notes that  
21 no time shall be ceded.

22 All persons appearing before the

1 Commission are to fill out two witness cards,  
2 and the cards are on the table by the door.  
3 Upon coming forward to speak to the  
4 Commission, we ask that you give both cards to  
5 the reporter who's sitting to our right.

6 Please be advised that this  
7 hearing is being recorded by the court  
8 reporter and is also being webcast live.  
9 Accordingly, we ask you to refrain from making  
10 any disruptive noises in the hearing room.  
11 When presenting information to the Commission,  
12 please turn on and speak into the microphone,  
13 first stating your name and address. And when  
14 you're finished speaking, please turn the  
15 microphone off.

16 The decision of the Commission in  
17 this case must be based exclusively on the  
18 public record. And, to avoid any appearance  
19 to the contrary, the Commission requests that  
20 persons present not engage the members of the  
21 Commission in conversation.

22 Please turn off all beepers and

1 cell phones so as not to disrupt the  
2 proceedings.

3 And now, I would ask that anyone  
4 who plans on testifying this evening, if you  
5 would stand now, raise your right hand, and  
6 Ms. Schellin will administer the oath.

7 (Whereupon, the witnesses were  
8 sworn in.)

9 CHAIRPERSON MITTEN: Thank you  
10 all. Ms. Schellin, do you have any  
11 preliminary matters?

12 MS. SCHELLIN: Just to advise that  
13 the Applicant has filed the Affidavit of  
14 Maintenance.

15 CHAIRPERSON MITTEN: Thank you,  
16 very much. Ms. Prince, any preliminary  
17 matters?

18 MS. PRINCE: None.

19 CHAIRPERSON MITTEN: Please  
20 proceed.

21 MS. PRINCE: Good evening, members  
22 of the Commission. My name is Allison Prince

1 of Pillsbury, Winthrop, Shaw Pittman. And I'm  
2 appearing before you tonight on behalf of the  
3 Heritage Foundation, the Applicant in Case No.  
4 07-01; the first case filed in the year,  
5 apparently. We appreciate the opportunity to  
6 come before you tonight.

7 The Heritage Foundation requests,  
8 for zoning consistency purposes, that the zone  
9 boundary line dividing its property be  
10 adjusted so the entire lot is in a single  
11 zone. As you're aware, the regulations  
12 generally disfavor the split zoning of lots.

13 The affected building located at  
14 208 Massachusetts Avenue, N.E., is on a lot  
15 that consists of 10,400 feet of lot area. And  
16 the rear portion of the building, the rear  
17 third or 3,080 feet of lot area is located in  
18 a different zone than the front portion of the  
19 building. As a result of the split zoning and  
20 the two different zone districts, we can't use  
21 a single floor of the building for office  
22 purposes.

1           The two zone categories, and  
2 they're a mouth full, the front of the  
3 building is CAP/CHC/C-2-A, and the rear of the  
4 building is CAP/R-4. And we would like the  
5 entire building to be in CAP/CHC/C-2-A.

6           The proposed map amendment would  
7 result in the entire property being similarly  
8 zoned and allow it to be consistent with the  
9 Comprehensive Plan. And the new map of the  
10 Comprehensive plan clearly shows the entire  
11 property located in the moderate density  
12 commercial zone.

13           As Mr. Revere, the architectural  
14 consultant for Heritage will describe, the  
15 application does not involve any addition to  
16 the building, whatsoever. The building is  
17 already non-conforming as to height and FAR.  
18 It's really a question of the use of the  
19 interior space within the building. And we  
20 have several exhibits that are already in the  
21 record. But Mr. Revere will walk us through  
22 those. He's my only witness tonight, Tim

1 Revere. As I said, he's an architectural  
2 consultant for Heritage. And he'll more  
3 specifically address the request.

4 And I also have with me here  
5 tonight Eric Korsvall who works for Heritage,  
6 in the event there are questions that Mr.  
7 Revere cannot handle. Thank you.

8 CHAIRPERSON MITTEN: Thank you.

9 MR. REVERE: Good evening, members  
10 of the Zoning Commission. My name is Tim  
11 Revere. I'm a representative of the  
12 Applicant. I appreciate the opportunity to be  
13 before you tonight.

14 The Heritage Foundation is located  
15 at 208 Massachusetts Avenue, N.E., and it's  
16 split zoned. It's on the north side of  
17 Massachusetts Avenue, between Second and Third  
18 Streets. The rear portion of the building is  
19 subject to the requirement of R-4 Zoning  
20 District, while the front portion of the  
21 building is subject to the requirements of C-  
22 2-A Zoning District and the Capitol Hill

1 Commercial Overlay. Both the rear and front  
2 are subject to Capitol Interest Overlay  
3 District.

4 Prior to the use of the building  
5 by Heritage, the split zoning was not an issue  
6 because the building was a single occupant  
7 apartment building -- single owner apartment  
8 building with the ground floor retail, located  
9 only in the commercially zoned portion of the  
10 space. However, since Heritage acquired the  
11 building in 2001, they've not been permitted  
12 to use the rear portion of the building for  
13 any commercial purposes. The rezoning of the  
14 3,080 square foot portion of the site that is  
15 now zoned CAP/R-4 will resolve the issues  
16 created by the split zoning.

17 The Heritage Foundation does not  
18 intend to increase the size of the building.  
19 And changing the zoning line will be in  
20 keeping with the Comprehensive Plan map which,  
21 as shown on this board right here, you can see  
22 Massachusetts Avenue, the site shown right

1 here in the pink. And we have an enlargement  
2 of this. Turn that up.

3 As I indicated, the site is on the  
4 north side of Mass Ave., between Second and  
5 Third. And you can see a small notch in the  
6 pink, which actually shows the rear of the  
7 property line of the 208 property. So the  
8 Comprehensive Plan has already included that  
9 entire site in the medium density commercial.

10 This is an exhibit that was taken  
11 from the Office of Planning report, which  
12 shows the site cross hatched. It shows the  
13 current situation, where the zone line cuts  
14 through the back of the building, the rear 47  
15 feet of the building. And it creates  
16 complications with utilizing a floor for  
17 multiple purposes. The Building Comes into  
18 play. We have issues of separation of use  
19 from residential use to commercial use. And  
20 it's just not an effective way for Heritage to  
21 try to utilize the space.

22 This is a photograph showing the

1 front of the 208 Building. As I mentioned, it  
2 was originally an apartment building. When  
3 Heritage took over the property in 2001, there  
4 was a renovation done of the building, which  
5 went through the Historic Preservation Review  
6 Board. And it is a contributing building on  
7 Capitol Hill.

8 You can just see the rear portion  
9 of the building back here. Which that is the  
10 portion that's affected that's in the R-4  
11 zone, currently. And we have one more  
12 photograph that shows it. This is from the  
13 west. It shows it from the east side. And  
14 it's this last piece. This was taken from  
15 Third street, behind the 214 Building. And  
16 this last piece is in the R-4 zone.

17 I'll be happy to address any  
18 questions that you might have.

19 CHAIRPERSON MITTEN: Thank you.  
20 It's pretty straight forward. Anything else,  
21 Ms. Prince, before we go to questions?

22 MS. PRINCE: Nothing else.

1 CHAIRPERSON MITTEN: Okay. Anyone  
2 have questions? Questions from the  
3 Commission? Does anyone have questions?  
4 Okay. Thank you, very much. Oh, Mr.  
5 Turnbull?

6 COMMISSIONER TURNBULL: I just had  
7 one question. If you're looking to make it  
8 all commercial, would you be -- but you're not  
9 looking to necessarily -- you'll be changing  
10 the interior footprint of the building, but  
11 not necessarily the exterior then?

12 MR. REVERE: No. There'll be no  
13 change to the exterior. As Ms. Prince  
14 mentioned, the building is already non-  
15 conforming --

16 COMMISSIONER TURNBULL: Right.

17 MR. REVERE: -- a to height, lot  
18 coverage, and we anticipate no exterior  
19 changes whatsoever. It's just a reshuffling  
20 of the uses within the building.

21 COMMISSIONER TURNBULL: Okay.  
22 Thank you.

1 CHAIRPERSON MITTEN: Thank you,  
2 very much. And we're ready for the Office of  
3 Planning report. Mr. Woods?

4 MR. WOODS: Good evening, Madam  
5 Chair and members of the Commission. I'm  
6 Douglas Woods with the Office of Planning.  
7 The Office of Planning recommends approval of  
8 the proposed map amendment to change the  
9 zoning for the back portion of the property  
10 located at 208 Massachusetts Avenue, N.E, from  
11 CAP/R-4 to CAP/CHC/C-2-A.

12 The property is improved with an  
13 eight story building which was constructed in  
14 1929, and is a contributing structure in the  
15 Capitol Hill Historic District. The back  
16 portion of the property is in the R-4 Zoning  
17 District, but most of the property,  
18 approximately three quarters of the site, is  
19 in the C-2-A District.

20 The proposed map amendment will  
21 allow for the zoning to be consistent with the  
22 Comprehensive Plan, as amended. This

1 concludes our testimony and I'm available for  
2 questions.

3 CHAIRPERSON MITTEN: Thank you,  
4 very much. Any questions? Mr. Hood?

5 VICE CHAIRPERSON HOOD: Yes.  
6 Madam Chair, I wanted to ask Ms. Steingasser  
7 -- forgive me, Mr. Wood, but I wanted to  
8 direct this to Ms. Steingasser.

9 This is a consistency case. How  
10 did this one happen to be driven or given to  
11 us? Did the Applicant file? I know we have  
12 a number of consistency cases and I'm sure the  
13 Office of Planning is going to be bringing  
14 them to the Commission. But how did we just  
15 so happen to do this one? Because of the  
16 Applicant's request? Is that what triggered  
17 it?

18 MS. STEINGASSER: The Applicant  
19 filed. It was the first case of the year.  
20 They were very eager.

21 VICE CHAIRPERSON HOOD: Okay.

22 MS. STEINGASSER: They originally

1 had come to us about going forward with  
2 variances, which I think they would be a very  
3 easy case to make. But every time they wanted  
4 to use a different floor, they'd have to go  
5 back and get a new variance. So we decided  
6 that they would work through the Comp. Plan  
7 Amendment process, clarify the boundary, and  
8 move it forward and get the whole site cleaned  
9 up.

10 VICE CHAIRPERSON HOOD: So when  
11 applicants come, like if they have a  
12 consistency case and, you know, the Office of  
13 Planning don't have any necessary problems  
14 with it, you all will then go ahead and give  
15 them your blessing or endorsement?

16 MS. STEINGASSER: We're trying to  
17 encourage the consistencies only in those  
18 areas where we feel there's a pressing need or  
19 a neighborhood's being threatened. This is  
20 kind of a unique case because they wanted to  
21 do some modifications to the building and the  
22 timing was right to just get it cleaned up

1 once and for all.

2 We've got three or four  
3 neighborhoods that are pushing for smaller  
4 consistency cases on a block by block. We're  
5 encouraging them to work either within the  
6 full ANC boundaries and kind of bring it  
7 forward as a rule making and less of a map  
8 amendment. But we're trying to discourage  
9 major consistency until we get the Zoning Regs  
10 rewritten. Because we hope to write new  
11 zoning categories, as well.

12 VICE CHAIRPERSON HOOD: Thank you.  
13 You just answered my questions. Thank you.  
14 Thank you, Madam Chair.

15 CHAIRPERSON MITTEN: Anyone else  
16 have questions for the Office of Planning?  
17 Okay. And I would just note, for the record,  
18 that Commissioner Jeffries has joined us. And  
19 I would note for the record that we have the  
20 report from ANC-6C in the record at Exhibit 18  
21 in support of this application.

22 Is there anyone else who would

1 like to give testimony in Case No. 07-01?  
2 Okay. Ms. Prince, anything? Any closing  
3 thoughts?

4 MS. PRINCE: I appreciate your  
5 time tonight. I think it's a straight forward  
6 case with the Office of Planning's support and  
7 the ANC's support. And from this ANC, that's  
8 really worth noting. And I'd appreciate your  
9 action tonight, if you're in a position to  
10 take it.

11 CHAIRPERSON MITTEN: Okay. Thank  
12 you very much. I agree with Ms. Prince. It's  
13 very straight forward and I think the record's  
14 complete. And I would move approval of Case  
15 No. 07-01.

16 VICE CHAIRPERSON HOOD: Second.

17 CHAIRPERSON MITTEN: Thank you,  
18 Mr. Hood. Any discussion? All those in  
19 favor, please say aye?

20 ALL: Aye.

21 CHAIRPERSON MITTEN: Those  
22 opposed, please so no. Ms. Schellin?

1 MS. SCHELLIN: The staff will  
2 record the vote five to zero to zero to  
3 approve proposed action in Zoning Commission  
4 Case No. 07-01; Commissioner Mitten moving;  
5 Commissioner Hood seconding; Commissioners  
6 Turnbull, Parsons, and Jeffries in favor.

7 CHAIRPERSON MITTEN: Thank you.  
8 Thank you, very much. Good luck. We're  
9 adjourned.

10 (Whereupon, the hearing was  
11 adjourned at approximately 6:45 p.m.)  
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