

GOVERNMENT OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

Zoning Map Amendment at Square 442, Lots 864 and 865
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Case No. 01-29MA
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Thursday,  
July 25, 2002

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

The Public Hearing of Case No. 01-29MA by the District of Columbia Zoning Commission convened at 4:00 p.m. in the Office of Zoning Hearing Room at 441 4<sup>th</sup> Street, Northwest, Washington, D.C., Carol J. Mitten, Chairperson, presiding.

PRESENT:

CAROL J. MITTEN, Chairperson

ANTHONY J. HOOD, Vice Chairperson

JAMES HANNAHAM, Commissioner

HERBERT M. FRANKLIN, Commissioner (outgoing)

PRESENT - (Continued):

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COMMISSION STAFF:

ALBERTO BASTIDA

SHARON SANCHEZ

I-N-D-E-X

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4:00 p.m.

CHAIRPERSON MITTEN: Good evening, ladies and gentlemen. This is a public hearing of the Zoning Commission of the District of Columbia for Thursday, July 25, 2002. My name is Carol Mitten, and joining me this evening are Vice Chairman Anthony Hood and Commissioner James Hannaham.

The subject of this evening's hearing is Zoning Commission Case No. 01-29MA. This is a request by the United House of Prayer for an Amendment to the Zoning Maps to change the zoning of Lots 864 and 865 in Square 442 from R4 to C2B within the Arts Overlay District.

Notice of today's hearing was published in the D.C. Register on May 17, 2002 and in The Washington Times on June 6, 2002. This hearing will be conducted in accordance with the provisions of 11 DCMR, Section 3022, which are the procedures for contested cases.

Copies of today's hearing agenda are available to you and are located at the table near the door. The order of procedure will be as follows: preliminary matters, followed by the applicant's case, report of the Office of Planning, reports of other agencies, report of the Advisory Neighborhood Commission, in this case it is 2C, parties and persons in support, parties and persons in opposition, and rebuttal by the applicant.

1           The following time constraints will be maintained  
2 in this hearing. The applicant will have 30 minutes to make  
3 their presentation, parties will have 15 minutes, organizations  
4 will have five minutes, and individuals will have three minutes.

5           The Commission intends to maintain these time limits as strictly  
6 as possible in order to hear the case in a reasonable period of  
7 time. The Commission reserves the right to change the time  
8 limits for presentations if necessary and notes that no time  
9 shall be ceded.

10           All persons appearing before the Commission are to  
11 fill out two witness cards. These cards are located on the table  
12 near the door again. Upon coming forward to speak to the  
13 Commission, please give both cards to the Reporter, who is  
14 sitting to our right.

15           The decision of the Commission in this case must be  
16 based exclusively on the public record. To avoid any appearance  
17 to the contrary, the Commission requests that persons present not  
18 engage members of the Commission in conversation during a recess  
19 or at any other time. Staff will be available throughout the  
20 hearing to answer any procedural questions, and you can direct  
21 those to Mr. Bastida or Ms. Sanchez.

22           Please turn off all beepers and cell phones at this  
23 time so as not to disrupt these proceedings.

24           At this time, the Commission will consider any  
25 preliminary matters.

1 Mr. Bastida, do you have any preliminary matters?

2 MR. BASTIDA: Yes, Madam Chairman.

3 The applicant, unfortunately, as an oversight  
4 forgot to post the property. The staff has made some research  
5 and has determined that the applicant met at least four times  
6 with ANC, and the ANC advertised the meetings widely through the  
7 community, and the ANC unanimously approved the application.

8 In addition, the applicant has had conversations  
9 with community residents. Unfortunately, he couldn't recall the  
10 exact names and times, and has worked with the adjacent neighbors  
11 and they have no objection to the proposal.

12 Accordingly, the staff believes, with the  
13 advertisement that the office does, the Office of Zoning does,  
14 that the community is well aware of these proceedings and  
15 believes that you can waive your requirements regarding the  
16 posting of the property. The property was not posted until July  
17 the 9<sup>th</sup>.

18 CHAIRPERSON MITTEN: All right.

19 Is there any objection from the Commission to  
20 waiving the rule regarding posting of the property in this case?

21 (Nays.)

22 CHAIRPERSON MITTEN: All right then, without  
23 objection we will waive the posting requirement in this case.

24 MR. BASTIDA: Thank you, Madam Chairman.

25 CHAIRPERSON MITTEN: Are there any other preliminary

1 matters?

2 MR. BASTIDA: No, the staff has no other preliminary  
3 matters. Thank you, Madam Chairman.

4 CHAIRPERSON MITTEN: Thank you.

5 Would all individuals wishing to testify this  
6 evening please now rise to take the oath.

7 Ms. Sanchez?

8 (Whereupon, the witnesses were sworn.)

9 CHAIRPERSON MITTEN: I believe we are ready for the  
10 applicant's case. You need to turn that on, you just push that  
11 button.

12 MS. JACKSON: Okay.

13 CHAIRPERSON MITTEN: Very good.

14 MS. JACKSON: Good evening, Madam Chair and members  
15 of the Commission, my name is Lisa Jackson of the law firm of  
16 Holland & Knight. Here with me to my right, also with the law  
17 firm of Holland & Knight, is Norman Glasgow, Jr., and  
18 representing the applicant we have Apostle Sterling Green,  
19 Director of Special Projects for the United House of Prayer for  
20 All People, and Suzanne Reatig, from Suzanne Reatig Architecture.

21 We are here representing the applicant, the United  
22 House of Prayer, and its request for a Map Amendment for the  
23 property at 626 S Street, N.W., Square 442, Lots 864 and 865,  
24 from the R4 District to the C2B Uptown Arts Mixed Use Overlay  
25 District.

1                   We are willing to go into as much detail as you  
2 would like. We also are willing to stand on the record, but we  
3 will proceed as you direct.

4                   CHAIRPERSON MITTEN: Thank you.

5                   I think it's pretty straightforward, and I know  
6 that my colleagues have had an opportunity to review the record,  
7 so let's just see if they have any questions and we can sort of  
8 cut through this.

9                   MS. JACKSON: Okay, we'd be happy to answer them.

10                  CHAIRPERSON MITTEN: Thank you.

11                  Are there any questions for the applicant?

12                  VICE CHAIRPERSON HOOD: I have none, Madam Chair.

13                  CHAIRPERSON MITTEN: Any questions

14                  MR. HANNAHAM: None.

15                  CHAIRPERSON MITTEN: All right.

16                  You are so well prepared, and given that I had been  
17 in the BZA case and Apostle Green and I have spent time together  
18 in the BZA, you know, this really is most appropriately a  
19 rezoning, so we are happy that you are here and I think it will  
20 be a pretty straightforward evening for us.

21                  MR. GREEN: Madam Chair, could I make one comment?

22                  CHAIRPERSON MITTEN: Absolutely.

23                  MR. GREEN: If I may, my name is Apostle Green,  
24 Director of Special Projects for Mission Matters with the United  
25 House of Prayer, and I just want to thank you for allowing us to

1 come back before you and your direction. We are pleased to be  
2 here, and thank you for your support and guidance in how we can  
3 go forward and build a beautiful development on that spot of  
4 ground. Thank you for your help.

5 CHAIRPERSON MITTEN: Thank you. It's always a  
6 pleasure to have you come down.

7 All right, then let's move to the Report by the  
8 Office of Planning.

9 MS. BRAUN-ROBERTS: Good evening, Madam Chairman and  
10 members of the Commission, I am Maxine Braun-Roberts,  
11 representing the Office of Planning.

12 Again, we are all familiar with the case, however,  
13 I just want to state that the application is in conformance with  
14 the Generalized Land Use Map, which recommends a mixture of  
15 moderate density residential, which allows row houses and garden  
16 apartments, and moderate density commercial uses, which allows  
17 shopping and services as one separate property. The proposed  
18 rezoning to the AC2B District is consistent with these  
19 recommendations.

20 The proposal will fulfill recommendations by  
21 providing housing in this area, and housing that will serve a  
22 very under-served portion of the District's population. In the  
23 event the property is not developed as residential and permitted  
24 scale of intensity of commercial uses are also compatible with  
25 the neighborhood.

1           The applicant has demonstrated that the proposed  
2 rezoning and development will provide housing and revitalize this  
3 area, and the proposed development will be compatible with  
4 existing developments.

5           The Office of Planning, therefore, recommends  
6 approval of this application.

7           Thank you, Madam Chairman.

8           CHAIRPERSON MITTEN: Thank you.

9           Any questions for Ms. Braun-Roberts?

10          VICE CHAIRPERSON HOOD: I just have one quick one  
11 for Ms. Braun-Roberts.

12          On the -- in your report, on the schematic picture,  
13 the aerial photograph you gave us, it seems as though Lot 108 is  
14 left out of the area. That's also included in the rezoning too,  
15 I believe, am I correct? I guess I just want to know, from what  
16 I'm looking at I see 108 is left out of the green area, unless  
17 you were just trying to depict the site.

18          MS. BRAUN-ROBERTS: The lots that are for the  
19 rezoning is Lots 864 and 865.

20          VICE CHAIRPERSON HOOD: Oh, okay, where did I get  
21 108 from?

22          Okay. Well, my next question is, we are looking at  
23 the C2B Arts Area, to the right, if I'm looking at the  
24 photograph, and my orientation may be a little off, I guess S  
25 Street is running north -- no, east and west, okay, if south of S

1 Street, that area to the right of what you have depicted here as  
2 the site, was that area under consideration also, too, as being  
3 part of the rezoning to C2B?

4 MS. BRAUN-ROBERTS: The only area that's under  
5 consideration tonight is the area outlined in green.

6 VICE CHAIRPERSON HOOD: But, I mean, in  
7 deliberations and discussions, would that be something viable?

8 MS. BRAUN-ROBERTS: You are asking if we considered  
9 --

10 VICE CHAIRPERSON HOOD: Right, was that considered?

11 MS. BRAUN-ROBERTS: -- yes, we did look at the  
12 fact, but we thought that those properties are developed  
13 appropriately and we didn't see any reason why we should include  
14 them.

15 VICE CHAIRPERSON HOOD: At this time.

16 MS. BRAUN-ROBERTS: At this time.

17 VICE CHAIRPERSON HOOD: Okay. I guess I was trying  
18 to save us a hearing, Madam Chair, to see if we could include  
19 that.

20 Thank you.

21 MS. BRAUN-ROBERTS: Your welcome.

22 CHAIRPERSON MITTEN: Thank you.

23 Any other questions for the Office of Planning?

24 All right. Did you have any questions for the  
25 Office of Planning? Ms. Jackson, any questions for the Office of

1 Planning?

2 MS. JACKSON: No, no, thank you.

3 CHAIRPERSON MITTEN: All right.

4 I don't see anyone here representing any of the  
5 other government agencies. I would just acknowledge the fact  
6 that we have received a letter from Jack Evans, who is the  
7 Council Member for Ward 2, in support of the rezoning.

8 Is there anyone here representing ANC 2C? Would  
9 you like to come forward at this time?

10 MR. PADRO: Good evening, Madam Chair and members of  
11 the board. I'm Alexander M. Padro, Advisory Neighborhood  
12 Commissioner for single-member District 2C01 and Shaw, where the  
13 subject property is located.

14 I'm not here to present the ANC report, which you  
15 should already have on file, however, I do have some additional  
16 comments and community perspectives that I would like to present.

17 I have a letter which I would like to submit to you and read  
18 from into the record.

19 CHAIRPERSON MITTEN: Please do. You need to give it  
20 to staff and then they'll pass it out.

21 MR. PADRO: Regarding the case before you, the  
22 building at 626 S Street, N.W., Square 442, Lots 864 and 865, is  
23 an early 20<sup>th</sup> Century 12-unit apartment house. Since it does not  
24 meet Code it has been vacant and boarded up for a considerable  
25 time, a blight to the community, because of the restrictions on

1 the site imposed by the current zoning the owner, United House of  
2 Prayer, has been unable to redevelop the site.

3 In 2001, the Board of Zoning adjusted and rejected  
4 the owner's application for a variance under 11 DCMR, Subsections  
5 3103.2, for a use variance to build a new apartment building  
6 under Subsection 33.5, not meeting Subsection 403's lot occupancy  
7 requirements, and relief from the parking requirements in an R4  
8 District.

9 In the Ward 2 portions of the Comprehensive Plan,  
10 neighborhood stabilization, the creation of additional housing,  
11 especially housing near Metro stations, are emphasized.

12 Approving the request of a Zoning Map Amendment  
13 would support these Comprehensive Plan provisions, since it will  
14 allow the applicant to replace a vacant, unusable structure,  
15 which is not in the Historic District, with housing directly  
16 across the street from a Metro station.

17 While the applicant certainly could construct two  
18 townhouses on the lots in question under the current zoning, they  
19 instead proposed constructing much needed affordable housing,  
20 which can serve to help stem displacement from renter families --  
21 of renter families, from nearby single-family homes which are  
22 being sold by their owners to capitalize on the dramatic increase  
23 in property assessment being experienced in Shaw.

24 In order to allow the applicant to use this  
25 property to provide housing for far more families than would be

1 possible in a matter of right development, the requested zoning  
2 change would be necessary.

3 The applicant's agreement to include retail space  
4 on the first floor of the proposed building will also support the  
5 community's desire for additional neighborhood-serving retail, as  
6 expressed in the Strategic Neighborhood Action Plan for Ward 2,  
7 Cluster 7, which includes the subject location.

8 In order to gauge community sentiments for the  
9 zoning change, I personally contacted over two dozen residents of  
10 the 600 block of S Street, N.W., as well as the 1700 and 1800  
11 blocks of 6<sup>th</sup> Street, N.W., and the 1800 block of Willburger  
12 Street, N.W., in March of this year, to determine if there was  
13 objection to the proposed change and whether there were any  
14 conditions that could be addressed in the Zoning Commission's  
15 decision to assuage specific concerns raised.

16 I determined that there were no objections raised  
17 to the proposed change in zoning per se, but there were  
18 associated traffic congestion and parking concerns.

19 S Street, N.W., between 7<sup>th</sup> Street and New Jersey  
20 Avenue, N.W., is a two-way east-way thoroughfare, frequently used  
21 by rush-hour commuters as a shortcut. The 600 block of S Street,  
22 N.W., is narrower than the 400 and 500 blocks, the 600 block does  
23 not have rush-hour parking restrictions imposed. The block is  
24 also the location of an entrance to the Shaw Howard Metro --  
25 excuse me, Shaw Howard University Green Line Metro Station. As a

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1 result, the parking lanes in the 600 block of S Street are  
2 generally fully occupied before, during and after business hours  
3 on weekdays. Commuters, residents, and customers of nearby  
4 business establishments compete for the limited number of parking  
5 spaces on these streets.

6 As mentioned previously, the street is a narrow  
7 one. When cars double park, even momentarily, the street becomes  
8 an obstacle course. Cars frequently travel at high rates of  
9 speed through the block in order to cross either 6<sup>th</sup> or 7<sup>th</sup> Street  
10 while the light is green or yellow. Increasing the number of  
11 vehicles that would be looking for parking in the area would  
12 increase traffic congestion and endanger pedestrians, including  
13 students of the Child Development Center at 614 S Street, N.W.

14 Concerns were also expressed by neighbors that an  
15 additional 16 apartments units on the block could potentially  
16 exacerbate an already tight parking situation along the 600 block  
17 of S Street, N.W. Since the creation of housing adjacent to the  
18 Metro stations is one of the Comprehensive Plan provisions which  
19 support the applicant's case, it was suggested that a provision  
20 be included in the applicant's rental agreements with tenants  
21 prohibiting the ownership of motor vehicles. Just as housing  
22 management companies can restrict whether or not tenants can own  
23 pets, a requirement that tenants in this building not own  
24 automobiles is certainly within the management's discretion and  
25 ability to enforce.

1                   Therefore, as the single-member district  
2 commissioner responsible for this location, I endorse the  
3 applicant's request for a Zoning Map Amendment, and request that  
4 the final Zoning Commission order include the requirement  
5 relating to ground floor retail space agreed to by the applicant,  
6 and a requirement that tenants in the building be prohibited from  
7 owning motor vehicles. These provisions should be included in  
8 the decision rather than the findings of fact, to ensure that  
9 there's no doubt that these conditions -- these are conditions of  
10 the approval of the applicant's request and not really findings  
11 of fact.

12                   CHAIRPERSON MITTEN: Thank you.

13                   MR. PADRO: I'd be happy to answer any questions you  
14 might have for me.

15                   CHAIRPERSON MITTEN: All right.

16                   Any questions from the Commission?

17                   Any questions? Certainly.

18                   COMMISSIONER HANNAHAM: I don't remember seeing a  
19 report from the Department of Transportation.

20                   CHAIRPERSON MITTEN: Oh, we don't have one.

21                   COMMISSIONER HANNAHAM: Is that part of the record?

22                   CHAIRPERSON MITTEN: We do not have one.

23                   COMMISSIONER HANNAHAM: We don't have one, okay.

24                   Is that still something that's practical that we  
25 can still acquire, something in the way of an assessment from the

1 Department of Transportation?

2 CHAIRPERSON MITTEN: Let me just ask, was there a  
3 referral made to --

4 MS. BRAUN-ROBERTS: A referral was made to the  
5 Office of Transportation. I did speak to them personally about  
6 it, and when I spoke to Abdullah he said that he did not have any  
7 concerns. I specifically asked him about the parking, and he  
8 said that he thinks that the parking that was being provided by  
9 the applicant was sufficient.

10 COMMISSIONER HANNAHAM: I'm just mulling it over.

11 CHAIRPERSON MITTEN: Okay.

12 Any other questions?

13 Ms. Jackson, did you have any questions for Mr.  
14 Padro?

15 MS. JACKSON: No, thank you.

16 CHAIRPERSON MITTEN: All right, thank you.

17 MR. PADRO: Thank you.

18 CHAIRPERSON MITTEN: Is there anyone else who would  
19 like to testify, either in support or opposition this evening on  
20 this case?

21 Any closing thoughts, Ms. Jackson?

22 MS. JACKSON: Thank you, Madam Chair.

23 Just to respond to the comments made by  
24 Commissioner Padro, our proposed development plan will provide  
25 the required number of parking spaces under the zoning

1 regulations, so we think that that will be -- in addition to the  
2 close proximity to the Metro Station, will minimize any adverse  
3 impacts on traffic and parking.

4 And, I'd also just like to conclude by thanking the  
5 Commission for considering this application, and we think it's  
6 pretty clear-cut, and we would ask that the Commission consider  
7 issuing a bench decision this evening.

8 CHAIRPERSON MITTEN: All right, thank you.

9 MR. GLASGOW: If I may, I'd just like to just add  
10 one item here.

11 CHAIRPERSON MITTEN: Certainly.

12 MR. GLASGOW: And, that is -- yes, sir, thank you --  
13 my name is Norman Glasgow, Jr., of the law firm of Holland &  
14 Knight.

15 Obviously, having a prohibition, particularly in a  
16 rezoning application, this is not a PUD, I think would be more  
17 than highly unusual and may severely limit the marketability of  
18 the units.

19 We are providing parking, we are meeting the  
20 requirements of the regulations, and I think that that should be  
21 sufficient, along with the referral and the discussion that the  
22 Office of Planning had with the Department of Public Works.

23 CHAIRPERSON MITTEN: Thank you.

24 I think the request for a bench decision is  
25 certainly appropriate in this case, given that it's

1 straightforward and we have certainly an adequate record before  
2 us. I guess I'll begin by just asking if there's any thoughts  
3 that the Commissioners would like to share. Are you reading to  
4 go forward with a decision?

5 VICE CHAIRPERSON HOOD: Madam Chair, in that case,  
6 unless there are any concerns, I move approval of Application No.  
7 01-29MA, rezoning of Square 442, Lots 864 and 865, from R4  
8 District to C2B District with the Uptown Arts Mixed Use Overlay.

9 COMMISSIONER HANNAHAM: I would second it.

10 CHAIRPERSON MITTEN: All right.

11 Any further discussion? Any discussion?

12 While I think we all appreciate the comprehensive  
13 research that Mr. Padro did, it would be very unusual to  
14 condition a Map Amendment, it's not project specific, but I think  
15 that we'll make sure that the Office of Planning gets a copy of  
16 your statement so that in their more comprehensive review of the  
17 area they can take those concerns into consideration.

18 So, is there any further discussion?

19 All right, all those in favor please say aye?

20 (Ayes.)

21 CHAIRPERSON MITTEN: Those opposed please say no.

22 Ms. Sanchez?

23 MS. SANCHEZ: Yes, the staff would record the vote  
24 three, to zero, to two, Commissioner Hood moving, Commission  
25 Hannaham seconding, Commissioner Mitten in favor, Commissioners

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1 May and Parsons not present, not voting.

2 CHAIRPERSON MITTEN: All right.

3 So, this is a preliminary proposed action, right,  
4 Mr. Bastida?

5 MR. BASTIDA: Yes. The staff would anticipate the  
6 final action will take place in September, because I would refer  
7 to NCPC, they will handle it in their September meeting, which is  
8 prior to your September meeting.

9 CHAIRPERSON MITTEN: Okay, so we'd anticipate taking  
10 final action in September then.

11 Thank you very much, and I now declare this public  
12 hearing adjourned.

13 (Whereupon, the above-entitled matter was concluded  
14 at 6:53 p.m.)

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