



CAPITOL HILL RESTORATION SOCIETY

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July 30, 2006

Ms Sharon Schellin, Secretary to the Zoning Commission
Office of Zoning
Suite 210-S
441 4th Street, NW
Washington, DC 20001

RE Case No 05-34

Dear Secretary Schellin,

This is the response of the Capitol Hill Restoration Society (CHRS) in this case. The case involves an amendment to the Zoning Map by rezoning Square 895, Lot 76 from R-5-D to R-5-B. CHRS supports the rezoning because it is consistent with the Comprehensive Plan and with the character of the Capitol Hill Historic District, which surrounds the square.

A history of this property is unnecessary because others have accurately summarized the history. It is clear from the history and the record in this matter that the property was upzoned to expand the use of the property as a hospital and that hospital usage has now evaporated. A number of arguments have been raised against the proposed rezoning. Among them are:

1. The HPRB review of plans constitutes approval of the current zoning. This argument overlooks the fact that the HPRB must consider the existing zoning and doesn't endorse any particular zoning.
2. Steven Sher argues that the Comprehensive Plan is not definitive on which way to go and is general and only advisory. This argument is contrary to Home Rule Charter which states in part "Zoning maps and regulations, and amendments thereto, shall not be inconsistent with the comprehensive plan for the national capital. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations and with a view to encouraging stability of districts and of land values therein." DC Code 6-641.02. Contrary to Sher's argument, the law supports the need to downzone the property to give reasonable consideration to the character of the district as an R-4 Historic district.
3. What about the investor buying the property and expecting to be able to develop the property to the maximum allowed by R-5-D? Dr. Shin was aware of the

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EXHIBIT NO. 67
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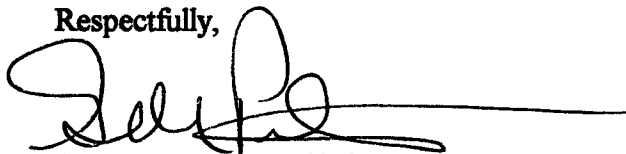
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checked history of the property and the upzoning for hospital purposes. Also, Dr Shin as President of MedLINK Healthcare, Inc was only interested in the health care business. In an e-mail dated June 10, 2004, addressed to Bill Crews, Commissioner of ANC6C07, Dr Shin stated that " MedLINK sees its primary mission as providing excellence in care to the patients it serves and to be reasonable in its concerns for the neighborhood." Clearly, investor Shin was not thinking of developing the property that he bought out of bankruptcy. It was only after the community moved to rezone the property that Dr Shin developed his plans to develop all of it as condominiums.

4. Buyers of homes in the neighborhood bought knowing of the planned development and are barred from asking for a downzoning. This argument isn't very compelling. What about buyers like me who rented in the neighborhood in 1969 and bought there in 1976? I expected a hospital being there as did my neighbors. It is only recent buyers who have encountered a different situation and if they are disqualified, I am certainly not.
5. The rezoning represents a taking. To be a taking there must be no remaining economic value left in the property. Dr Shin has rented out the north half of the property for 10 years. The rental is unchanged by the rezoning and there is clearly economic value in the property as rezoned. Furthermore, if Dr Shin believes there has been a taking his remedy is to go to court and recover the value of the taking. The rezoning does not prevent this remedy.

In closing, CHRS supports the proposed map amendment as it applies to Square 895, Lot 76, the property located at 708 Massachusetts Avenue, N E. CHRS urges the Zoning Commission to immediately take final action amending the map.

Respectfully,



Gary M. Peterson, Chair
Capitol Hill Restoration Society
Zoning Committee

CC: Ellen McCarthy, Director
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