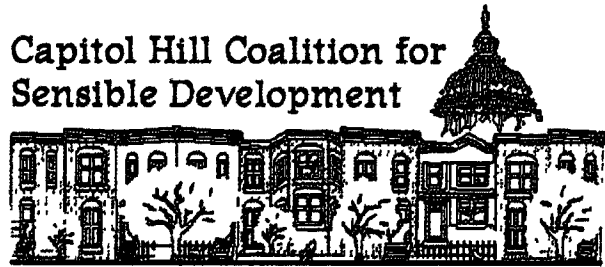


RECEIVED
DC OFFICE OF ZONING

2006 JUL 31 PM 12 24

**Capitol Hill Coalition for
Sensible Development**



July 31, 2006

Ms. Carol Mitten, Chair
DC Zoning Commission
District of Columbia Office of Zoning
441 Fourth St., NW, Suite 210 South
Washington, DC 20001

Subj: Case # 05-34, Square 895, 700 Constitution Avenue, NE, Capitol Hill
Proposed Rulemaking

Dear Ms. Mitten:

The Capitol Hill Coalition for Sensible Development (CHCSD) submits the attached comments supporting the proposed rulemaking in this case. The Coalition is made up of neighbors who live in the immediate area of the subject site and who advocate residential development compatible with the Capitol Hill Historic District. In March we submitted a petition with 561 signatures of neighbors who supported rezoning to R-4. Although the proposed rezoning is not to that level, we believe it will still bring the site into greater consistency with the DC Comprehensive Plan and better serve the interests of the Capitol Hill community and the city as a whole.

We appreciate the Zoning Commission's consideration of this matter, the detailed attention with which all the Commissioners have evaluated this issue, and your proactive inclusion of the community in these proceedings.

Sincerely,

A handwritten signature in black ink that reads "Janet Quigley".

Janet Quigley
Chair, CHCSD

ZONING COMMISSION
District of Columbia

Cc: Ms. Ellen McCarthy, Office of Planning
Michael G. Sherman, ANC 6C08

CASE NO. 05-34
EXHIBIT NO. 68

**BEFORE THE ZONING COMMISSION
OF THE DISTRICT OF COLUMBIA**

ANC 6-C Zoning }
Map Amendment }
Square 895, Lot 76 }

Case No 05-34

July 31, 2006

**COMMENTS OF THE CAPITOL HILL
COALITION FOR SENSIBLE DEVELOPMENT
ON PROPOSED RULEMAKING**

The Capitol Hill Coalition for Sensible Development (CHCSD) is a neighborhood organization formed in 2000 to advocate residential development of a nature and level that is compatible with the Capitol Hill Historic District. The majority of CHCSD's members lives within a two-block radius of Square 895 and is directly affected by the site. Since 2000 CHCSD has consistently supported residential use at a height and density befitting the surrounding 1880's row house neighborhood. CHCSD has promoted an R-4 level during this proceeding and continues to believe that rezoning of Square 895, Lot 76 from R-5-D to R-4 would make the lot's zoning most compatible with the surrounding area, but accepts the proposed rulemaking action to rezone the lot to R-5-B as a reasonable compromise. We believe the Zoning Commission's proposed action will bring this site into greater compliance with the DC Comprehensive Plan and the Generalized Land Use Map, and better serves the interests of the Capitol Hill community and the city as a whole.

1. ADVANTAGES AND BENEFITS

Residential Use Residential use is appropriate for this site and is called for in the Comprehensive Plan and Generalized Land Use Map. The proposed rezoning to R-5-B will encourage residential use at a level more appropriate to the surrounding area than R-5-D. The current zoning level was granted in order to expand a hospital. Conversion to residential use at the R-5-D level would be in drastic contrast with the sea of R-4 historic structures which almost entirely surround the site, and would be inconsistent with city policies. The Office of Planning stated in its December 2, 2005 Setdown Report that "[t]he R-5-D zone is a high-density residential district and, if fully redeveloped the square could result in inconsistency with the moderate density designation of the Comprehensive Plan" (p. 3). It further stated "The rezoning of the subject property from R-5-D to R-5-B will allow for the conversion of the existing building into residential use." (p. 4).

Historic Preservation Designated in 1973, Capitol Hill is the largest historic district in the country with a distinguished history and heritage. It is also one of the oldest residential neighborhoods in Washington. The proposed lower zoning level respects the historic character and significant historic structures in the area including the 1928 hospital

building on Lot 76, St James Church on the same square and The Louise directly across 7th Street, and supports the Comprehensive Plan's historic preservation element. The R-5-B level also allows adaptive reuse of the contributing structure on Square 895 as apartments or condominiums, as OP observed at the 1/9/06 Public Meeting where the Commission approved ANC 6C's petition for set down (Transcript p 21) In fact, the entire site lends itself to reuse Such a proposal to restore the buildings on Lot 76, redesigned to meet historic preservation criteria (the "Holladay plan"), was approved by the Historic Preservation Review Board in 2001

Neighborhood Stabilization The south half of the site has been vacant for approximately ten years, a result of the declining economic viability of inner city hospitals nationwide Vacant buildings promote vagrancy and crime, which are destabilizing factors for any neighborhood Rezoning would allow revitalizing residential use to proceed at an appropriate level consistent with moderate density

Traffic, Safety and Parking. A lower zoning level would mitigate traffic and safety problems During the March 23, 2006 hearing ("the Hearing") three neighbors expressed concern that traffic is already congested and residential development at R-5-D would exacerbate it The same applies to parking congestion, which is a continuing problem on Capitol Hill, and the safety that comes with not having to walk several blocks to one's residence at night. There was also concern that the number of accidents will increase as traffic increases

2. DISCUSSION

The current zoning level is inappropriate. R-5-D served a purpose when the hospital expanded, but in a transition to residential use its high density is inappropriate for the Capitol Hill Historic District The Office of Planning's 3/6/06 Final Report includes five instances of noncompliance with the moderate density residential provisions of the Comprehensive Plan and Generalized Land Use Map, at pages 3, 6, 7 and 8 OP's 12/2/05 Setdown Report makes clear that HPRB's support of a project in an existing zoning level does not constitute an endorsement of that level (p 2) Under the current zoning, construction of a 90-foot building could proceed as a matter of right

While zoning anomalies can occur, the Square 895 anomaly is extreme. During the March 23, 2006 Hearing, Mr Steve Sher, representing the landowner, referred to four examples of zoning anomalies elsewhere in the city (Exhibit 52) R-5-D in an R-5-B area (two examples), R-3 in an R-1 area and R-5E in a mixed area at 13th and M, NW None of those are as drastic as the discrepancy between Square 895's R-5D and its R-4 and C-2 neighbors

The owner has submitted six development plans in six years Because of the height, size, and density permitted by the existing zoning level, none of the plans has been acceptable Since 2002 the owner has steadfastly held to its desire to develop the site to the historically incompatible, full medium-high density level. Their actions forced ANC 6C to submit its petition to correct the anomalous zoning as its only recourse

Split Zoning is Not Appropriate for the Site At the March 23, 2006 Hearing, Mr Glasgow and Mr Hartman both testified on behalf of the landowner that they did not object to rezoning the north end of the site to R-5-B but that the south end should retain its current level (tr pp 97 & 99) This is a hollow compromise It would result in construction of the proposed R-5-D project on the south end, a grandfathering of the 77-foot North Tower building, and (with demolition of tower ancillary structures and PUD related approvals) could add 51,000 FAR square feet on the north end This shows no deference to the Comprehensive Plan or the needs of the neighborhood A uniform (and lower-density) zoning of the site would better advance residential goals.

R-5-B for the entire site is a compromise between R-4 and R-5-D. R-5-B was not CHCSD's preferred option because it does not provide adequate protections against historically and developmentally incompatible designs, but it is an improvement from the current situation In selecting R-5-B the Commission had to examine and balance many issues: how best to encourage residential use, compliance with the Comprehensive Plan and Generalized Land Use Map, the fate of non-conforming structures and the relevance of the Historic Preservation Review Board to rezoning matters At the March 23, 2006 Hearing, Ms Steingasser of OP stated "we felt that the R-5-B found the balance between the existing non-conformity and the potential for reinvestment and the moderate density that the neighborhood was seeking." (tr. p. 63). Commissioner Turnbull made a similar observation at the April 20, 2006 Public Meeting. "I think R-5-B is a compromise it respects both interests . it responds to the needs of the site and what it can be and what it should be " (tr p 29)

At that March Hearing, five community groups and two ANC's testified in support of reductions ranging from R-4 to R-5-B Although the specific levels varied, they were unanimous in desiring a level lower than the current R-5-D In testimony, CHCSD advocated R-4 for consistency with the original rowhouses in the area and opposed R-5-B because the potential increases of a PUD would bring FAR within 15% of the R-5-D amount (OP 3/6/06 Final Report, p 8) Still, R-5-B is a workable compromise Although it promotes apartments instead of houses, it achieves a needed reduction from high density and gains the benefits conferred by that reduction

We recognize that the current structures will be grandfathered and can appreciate the R-5-B designation as a compromise that will permit adaptive reuse of those structures for residential use, while maintaining the moderate density called for in the Comprehensive Plan Furthermore, should a developer choose to demolish a structure, R-5-B (without a PUD) would ensure new construction at a maximum height of 50 feet which would be more compatible with the historic context This would respect the 54-foot height of the historically contributing 1928 hospital building as well as the St James Church property (42' excluding the spire), The Louise (41') and the surrounding 1880's row houses (28-40') (see area building heights in CHCSD height survey, September 2000, at Exhibit 43) Since 2000 CHCSD has sponsored petitions (which garnered more than 1,600 signatures) that include a condition to limit any new construction to the height of the 1928 hospital

Nonconformities are acceptable to the community. The two OP reports observe, and neighborhood groups acknowledge, that any reduction in zoning will produce nonconforming structures. The Commission expressed a concern that nonconformities can hinder investment and the transition to residential use and should therefore be minimized, and OP cited nonconformities as a reason for recommending the alternative zoning level of R-5-B (4/20/06 tr p 20)

Nonconformities were discussed at a meeting of neighborhood organizations with OP staff on January 30, 2006. Neighbors indicated that nonconformities resulting from rezoning were acceptable and were not expected to discourage desired uses. A week before our meeting with OP, the landowner told OP that he would build the "Holladay project" in the event of a zoning change. This suggests that a reduction in the zoning level will not deter conversion to residential uses.

Ms. Steingasser acknowledged the community sentiment at the March Hearing: "[W]hen we concluded on the R-5-B as the appropriate zone, we considered heavily the non-conforming aspect of the property and as the petitioner has evidenced, they understand the non-conforming issue and they're willing to accept that." (tr p 62)

3. PUBLIC SUPPORT

The record of this case reflects overwhelming community support for rezoning and residential use. It includes testimony from five neighborhood organizations and two ANC's, numerous letters from individuals, and a petition circulated by CHCSD in March 2006 that garnered 561 signatures of Square 895 neighbors (Exhibit 41), most within two blocks of Medlink, all in support of the petition.

Historically, the neighborhood has supported residential development of the site, although height and density have been constant stumbling blocks, due to the R-5-D designation. In 2001, the landowner and the neighborhood overcame those blocks, reaching a compromise agreement on the Holladay project to develop the entire site primarily through reuse of existing structures. CHCSD considered the project still too large and dense, but agreed to it as a maximum in the spirit of compromise. Unfortunately, the landowner encountered problems moving its hospital operation and was unable to undertake the development. We believe this project is still feasible, as evidenced by the owner's plan to build the south portion of it if the zoning changes to R-5-B.

SUMMARY

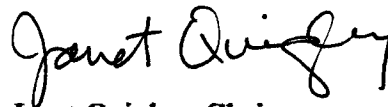
We respectfully commend the Zoning Commission for its thorough and rigorous examination of this consistency rezoning. With two public meetings addressing setdown, a lengthy hearing of the case, two public meetings for deliberation, and three reports from the Office of Planning, they were able to evaluate in detail the complex issues of appropriate uses, consistency with the Comprehensive Plan and Generalized Land Use

Map, nonconformities, the pending development proposal, relevance of HPRB's reviews, legal issues and the effects of various zoning levels

The Commission held the second setdown meeting and ordered a supplemental report in order to gather additional information on community groups' positions on the proposed Shalom Baranes project and to analyze the various zoning levels' impacts. The fourth public meeting, held in May, afforded additional discussion of nonconformities, split zoning and the nature of past negotiations between the landowner and the community. Taken together with the other meetings and materials, the additional information painted a different picture of the situation than was initially perceived, namely it became apparent that there was hardly any community support for the pending project and widespread support for the zoning change.

CHCSD supports adoption of the proposed rule, although we continue to believe R-4 would be the most compatible level, and believes the Zoning Commission has appropriately concluded that a rezoning to R-5-B will further city goals, enhance safety, stability and housing in the immediate neighborhood, and help to preserve the unique and valuable character of the Capitol Hill Historic District.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Janet Quigley". The signature is fluid and cursive, with the first name "Janet" and last name "Quigley" clearly distinguishable.

Janet Quigley, Chair

CAPITOL HILL COALITION
FOR SENSIBLE DEVELOPMENT