

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DISTRICT OF COLUMBIA ZONING COMMISSION
SPECIAL PUBLIC MEETING**

**MONDAY
MAY 18, 1998**

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The Zoning Commission met in hearing room 220 South, 441. 4th Street,
N.W., Washington, D.C., at 6:34 p.m., Jerrily R. Kress, Chairperson, presiding.

PRESENT

JERRILY R. KRESS

Chairperson

HERBERT M. FRANKLIN

Commissioner

JOHN G. PARSONS

Commissioner

STAFF PRESENT

SHERI PRUITT-WILLIAMS

Office of Zoning

VINCENT ERONDU

Office of Zoning

DAVE COLBY

Office of Planning

**ZONING COMMISSION
District of Columbia**

CASE NO. 06-32

EXHIBIT NO. 7

**ZONING COMMISSION
District of Columbia
CASE NO.06-32
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1 P-R-O-C-E-E-D-I-N-G-S

2 CHAIRPERSON KRESS: I would like to call -- whoops -- I would
like to call our special meeting to order tonight. We had scheduled this special
meeting to discuss 97-14Z remaining zoning text and map amendments based on
the 1994 amendments to the comp plan.

6 And I'm Jerry Kress. Joining me this night, this evening are
Commissioners Franklin and Parson.

8 And with that, I'll ask if there are any preliminary matters.

9 MS. PRUITT-WILLIAMS: No, Madam Chairperson, there are no
preliminary matters.

11 CHAIRPERSON KRESS: All right. Hearing, then, I would open
it for discussion for our preliminary action.

13 MR. COLBY: Did you want a report from the Office of Planning?

14 CHAIRPERSON KRESS: Would we like a report from Office of
Planning?

16 MR. COLBY: You have the report and I'm happy to summarize
it. It's in the form of a hearing summary and also, actually, three pieces: a hearing
summary, a response to questions by the Commission, and a gratuitous, really,
follow-up memorandum from the Office of Planning on the boundary issue in one of
the rezoning zones.

21 And as I think you remember, many or most of the items in the
advertised text, which our summary follows very closely, you might just go down the
summary.

24 The issues are in numbers, I believe the Commission's issues
will be with number three largely.

26 Well, why don't we --. I'm happy to go through it but --.

27 CHAIRPERSON KRESS: I might get some overview comments

if we decide to go through it, we might vote issue by issue and then ask for a summary.

3 MR. COLBY: Okay. Sure.

4 CHAIRPERSON KRESS: I would just like to ask one thing as I was reviewing it. It appears that, in the announcement for the public hearing and in your initial reports, we had, relating to Section 1706.3.B.

7 It's two square feet of bonus density for each square foot, and then that is revised in your February 13 to say, on page ten, "The ration south of Mass was mistakenly shown as two to one in the proposed zoning text in both OP's preliminary report and the notice of public hearing.

11 MR. COLBY: It was, that was, you're quite right. That was my trying to make more consistent the material that I had inherited from Mr. Gross.

13 I think, subsequent to that, it's become clear, both in what limited testimony there was on the case, as well as, in our minds, that I should have left well enough alone. That to get housing downtown, to get housing downtown will require as much incentive as we can provide, and at two FARs, the better number, even though it doesn't allow us step-down from north of Mass to south of Mass. It, too, we would recommend to go with --.

19 CHAIRPERSON KRESS: You recommend that to --.

20 MR. COLBY: Go back to the original two.

21 CHAIRPERSON KRESS: Go back to the two to one.

22 MR. COLBY: Yes.

23 CHAIRPERSON KRESS: Irregardless of this report.

24 MR. COLBY: Yes.

25 CHAIRPERSON KRESS: I just wanted to have that one item clarified.

27 Before we go into, and I was going to follow, basically, your

outline, which parallels the notice of public hearing, but I thought we might want to discuss this, perhaps generally, before we go item by item.

3 Is there any general discussion on the issues before we perhaps get a presentation and go item by item?

5 COMMISSIONER FRANKLIN: Well, Madam Chair, I speak as the least knowledgeable of the three of us and, therefore, I have to approach this issue with certain evasive commitments and principles in mind that are perhaps individual to me.

9 I am very much in favor of having more housing downtown, particularly south of Massachusetts Avenue.

11 I don't see how that goal is likely to be achieved by allowing the housing component that is otherwise required to be met off-site, at some distance.

13 I also think that the TDR approach makes a lot of sense. I think that, as Mr. Colby has said, we ought to be creating incentives for housing, but I don't think we ought to be creating a situation where you can buy your way out of providing housing where we want housing to be provided, even though, you know, affordable housing and other housing is needed elsewhere in the community.

18 So, I'm not prepared to vote for anything that would permit the residentially required elements to be satisfied at other than the sites that we are trying to get housing at.

21 Now, I know there are all kinds of arguments about whether that will work or not, but we are, I think, able to hope that it will work if we have a TDR approach such as the Office of Planning has recommended.

24 So, I'm ready to go with a TDR approach to this, but not with a buy-out approach.

26 CHAIRPERSON KRESS: Well, since there's only the three of us and, as you --

1 COMMISSIONER FRANKLIN: Now, you may wish, under those
 circumstances, since we don't have a full complement of commissioners, to have
 this thrown back open and have our two colleagues join us to --.

4 k: Well, the other thing, I wanted to talk about it generally
 because I do agree there's a lot going on. There are these new task forces,
 Congress is intervening, so I'm looking at some of the economic development kinds
 of issues.

8 We are in the process, or the Council's in the process, of redoing
 the comprehensive plan and, in fact, during my hearings on my --.

10 I'm sorry. We are in a formal meeting right now. Excuse me.
 We are meeting. If you have any conversation, please take it to the hall. Thank
 you. 12

13 We were offered by Linda Cropp to make our comments on the
 comprehensive plan and so there is an opportunity for us to look at some of these
 issues, make comments, and I think for the community to also be able to make
 comments on the comprehensive plan.

17 So, that's why I thought perhaps a general discussion was in
 order. 18 I realize that, or sense that, you felt an unreadiness to be able to vote on
 some 19 these issues, and perhaps we should deal with it in a general way and what
 we want 20 to do before we get to specifics.

21 Where are you, Commissioner Parson?

22 COMMISSIONER PARSONS: Well, I'm with Mr. Franklin, which
 is no 23 surprise to most folks that know where I come from, but --.

24 Mr. Colby, there was a housing summit the Mayor conducted
 some 25 time in April, I think, or maybe March. Is anything coming from this, or we are
 we still 26 going to be held to the comprehensive plan as it is?

27 MR. COLBY: The targets didn't change, and what the summit

did for me, what I have gotten from it and what you have gotten from it is that, is the product, basically, that went into the summit in terms of housing targets, the status of housing downtown.

4 Beyond that, I don't know of any, of any specific incentives to, beyond what we know about through the Council legislation.

6 COMMISSIONER PARSONS: So there's no movement to move the 40 to 50% percent required back to 40%.

8 MR. COLBY: No.

9 COMMISSIONER PARSONS: So, everybody wants housing, but nobody's willing to do anything about it. Is that it?

11 It's basically what's happening. And when started at 9300 units, we're lucky to get three, and everybody's still talking about a lively downtown and there's no question the people who weren't talking before are talking, the Director of DHCD

15 I mean talking in a way where, where one believes them, but today there's no change or no lobbying of the Council to change that, that I'm aware of, to change those numbers.

18 Then, I must confess, I'm a little confused, maybe I didn't do enough homework.

20 We asked for testimony on this, but it's not an advertised action item, is that correct?

22 MR. COLBY: That's correct.

23 COMMISSIONER PARSONS: So, even though we're not inclined, apparently, to deal with this, what would have been our next move, to have a formal hearing on language to revise this?

26 MR. COLBY: I can only say that in the past, it's my, my, and I've never been asked the question. It's really an administrative question, I think, but the

Commission has, to my knowledge, in the past, acted on language which was presented, or questions presented in the, in the hearing notice and acted on them on the basis of testimony, I mean, has done the same thing on the Chain Bridge Road, have put things in just to invite testimony and then has acted upon that as, has considered that, I think, sufficient notice.

6 I'm, however, I'm not going to stand on that.

7 I was trying to determine whether we had enough information to act on this. It was falsely, it was mistakenly advertised, put in as officially advertised, so you've got as much notice, as much information from that notice as you possibly could have.

11 What the Commission intended to do was to send a stronger message to the public that they, that you weren't inclined to treat that as the rest of the text was being treated by asking for comments only.

14 But, effectively, you have advertised it, I believe, it had the effect of advertising it and receiving comments on it.

16 COMMISSIONER FRANKLIN: In other words, were we to choose to act tonight, we'd be legal.

18 MR. COLBY: I believe so, but I wouldn't want you to —.

19 COMMISSIONER PARSONS: The other issue is whether we have the option, if you will, the discretion to not follow the guidance of the City Council.

22 MR. COLBY: Is that a separate question?

23 CHAIRPERSON KRESS: I think that's a separate question, yes.

24 COMMISSIONER PARSONS: You don't need to answer either one. 25

26 COMMISSIONER FRANKLIN: On that point, we have been given a large submission by Wilkes, Artis, on some of the legal issues, and I'm,

notwithstanding that submission, not persuaded that we have the authority to, in effect, require housing off-site.

3 I know they say it would be voluntary, but it's obviously something that wouldn't be done but for regulations, when the whole purpose and intent of those regulations is to get housing on-site, so I don't see the connection.

6 I mean, if maybe you could give me, as I said at the outset, when we first discussed this, maybe if we need more parks, we can require parks. Or something else as a way of buying your way out of what would otherwise be regarded as an onerous regulation.

10 I think the TDR approach does save it, in the sense that it creates the kind of incentives that tend to work. So, that's where I am, Sharon, now if it's decided that we punt on this and just readvertise and let our colleagues come on board and hear the pros and cons, I would be happy.

14 CHAIRPERSON KRESS: Well, it's obvious that we're split and I feel that, from reading the, all of the information, I feel that if, if, that the new members would need more than just reading the transcript, because I think there's a lot of history here, and there were a lot of other discussions pertinent to all this.

18 So, to me, it's obviously, it's obvious that we're split and so on the issue that we're split on, we've got two choices. One, either ask the other two members to read it, or to open it up to hearings. And my sense would be to open it up for more hearings so that this can be aired and discussed, and that they have the opportunity to ask questions and whatnot.

23 That would, that's what my sense is.

24 COMMISSIONER PARSONS: I would agree. I'm trying to figure the timing of that. Is there anything going on in the city as a result of that symposium, that summit, that we should be waiting for? Like if we had hearings in October or November, would some progress be made?

1 MR. COLBY: The Comp Plan mark-up is supposed to occur in
 2 September. Assuming that does occur in September, and it's a reasonable
 3 assumption now, there could be something coming out of that, but I can't tell you
 4 what it would be. There frequently is some message coming out.

5 CHAIRPERSON KRESS: And I say that we can have an
 6 opinion. If we want to sit and discuss among ourselves and have an opinion and put
 7 it to the City Council as a part of that, whatever that opinion is can be heard.

8 MR. COLBY: Let me add, I would implore you to act if you see
 9 fit on the remainder of the case tonight. And if that one goes off to the side, why
 10 then, send it off to the side.

11 CHAIRPERSON KRESS: I thought some of these are
 12 dissociated issues and I feel comfortable -- I was just trying to get a handle on the
 13 general. I'm prepared to vote on everything, I was just jumping ahead to, I was just
 14 jumping ahead to knowing what was going to happen.

15 MR. COLBY: Now you know.

16 CHAIRPERSON KRESS: Well, if there isn't any other general
 17 discussion, why don't we go back and just deal with the specific issues that we can
 18 deal with.

19 Is there, may we use the Office of Planning because it parallels
 20 the --

21 COMMISSIONER PARSONS: March 31.

22 CHAIRPERSON KRESS: No, the February 13. March 31 only
 23 hits a couple of high points, I believe.

24 If not, if you have the hearing notice they're really the same.

25 COMMISSIONER FRANKLIN: Sure.

26 CHAIRPERSON KRESS: The first issue is the reference to
 27 periodic amendments, I think that's bookkeeping, and it just basically adds the words

"as amended."

2 So item number one, can I say by consensus we all agree?

3 COMMISSIONER PARSONS: Sure. Keep going.

4 CHAIRPERSON KRESS: Item number two, to me, is not
 controversial. Is that true? Either one of --.

6 COMMISSIONER PARSONS: Fine.

7 COMMISSIONER FRANKLIN: Go ahead.

8 CHAIRPERSON KRESS: Okay. There's a consensus on item
 number two.

10 Item number three, I think is what we've been discussing, and
 we should skip. Is that correct?

12 MR. COLBY: Pass, yes.

13 CHAIRPERSON KRESS: Item number four, square 491, any
 discussion about that? And if you want, and I'm not allowing Office of Planning to do
 any presentation here, I mean, I am, I don't mean to not allow Office of Planning to
 do any presentation.

17 That's basically, is coming out and it's including square 491 in
 Housing Priority Area C. Am I not correct?

19 MR. COLBY: Yes.

20 CHAIRPERSON KRESS: Is there a problem?

21 COMMISSIONER FRANKLIN: Is there a buy-out possibility in
 this text here?

23 MR. COLBY: I don't, I think the very fact that it's in Housing
 Priority Area C would give it the same buy-out potential that anything else in Area C

-- 25

26 COMMISSIONER FRANKLIN: I'd vote for it without buy-out
 potential. As recommended by the downtown Christian congregations.

1 CHAIRPERSON KRESS: Can we do --. I don't know that we
can do that with the words "and as advertised," can we?

3 And I mean can, not may? Are we able to somehow vote on four
with --.4

5 See, I 'm looking down the road at your concern, Commissioner
Franklin, of --.

7 COMMISSIONER PARSONS: How is it the buy-out provision is
in here? I mean, it's not, is it? This would be adding 491 to a list of other squares.

9 COMMISSIONER FRANKLIN: I think you're right, Mr. Parsons.
I am looking at 1706.8. It says "Housing Priority Area C, the down core area,
comprises DDC4 zoned properties located in various blocks," and this would simply
add another block, 491.

13 So, if that is the case, I would certainly favor that.

14 COMMISSIONER PARSONS: This is the block owned by the
District of Columbia that's being shopped around? And we have an FAR require -- a
housing requirement on it.

17 Some of the proposals coming in, hopefully, will have that. Not
the MOC proposal, but how about the opera proposal? No, I'm kidding.

19 So I don't see any problem with this, from that standpoint.

20 CHAIRPERSON KRESS: Can I assume that there's a
consensus --. May I have a consensus on this issue then?

22 All right. We have a joint consensus on approving item four.
What about item five.

24 Oh, by the way, with item four, may I also put in the map
amendment which is number nine in the public hearing notice? Because these run
in tandem, am I not correct? The map amendment and the text amendment we're
on a consensus on both of those issues relating to square 491.

1 All right. What about item five which, to me, does seem to be
housekeeping.

3 COMMISSIONER FRANKLIN: That's a fait accompli.

4 COMMISSIONER PARSONS: Yes, it's just telling it like it is.

5 CHAIRPERSON KRESS: So, may I have consensus on item
five? 6

7 UNIDENTIFIED: Indeed.

8 CHAIRPERSON KRESS: All right. Item six. Is this, do we want
to deal with item six, or because of the hold on item three, deal with item six in the
re-heading? What's your pleasure/

11 COMMISSIONER FRANKLIN: Well, this is just the TDR, I'm
assuming?

13 MR. COLBY: Yes, it is. It's just, TDR is which are going to help
housing downtown. I guess the only issue is whether it's one and a half, I think; or
two FAR.

16 COMMISSIONER PARSONS: And you're recommending two?

17 MR. COLBY: Yes.

18 CHAIRPERSON KRESS: Which is what was published in, which
was advertised, yes, excuse me.

20 COMMISSIONER FRANKLIN: I would be in favor of the
measure.

22 COMMISSIONER PARSONS: At two?

23 COMMISSIONER FRANKLIN: Yes.

24 CHAIRPERSON KRESS: As published. All right then. We have
a consensus on item six.

26 Item seven. These are the three additional receiving zones for
the TDRs.

1 MR. COLBY: I think seven is just a renumbering, at least in our -

2

3 COMMISSIONER FRANKLIN: Yes, where seven is simply a
renumbering for.

5 MR. COLBY: The next one would be the --

6 CHAIRPERSON KRESS: I'm sorry. It's, yes, it's under item six.
Excuse me. You're correct. Yes.

8 Here's --. See, I was going by yours. Your number seven was
the three additional and in the public hearing number seven is the renumbering. But
the renumbering we need regardless. So now we're talking about adding the new
subsection.

12 I don't think, I think we all can say we're in consensus with
number seven as published in the notice of public hearing.

14 Now, we're really talking about number eight, and adding the
three new subsections.

Is there

16 COMMISSIONER FRANKLIN: I would endorse that measure.

17 COMMISSIONER PARSONS: Well, on OP's report, they said
that they neglected to request advertisement of a change to 18, which we made
clear. Do we need to amend anything there, Mr. Colby?

20 CHAIRPERSON KRESS: He is talking 1709.18.

21 MR. COLBY: You have a map which we provided in a May 1
memo which shows that receiving zone --. The issue that we had raised earlier in
the public hearing, that on, at north and south of, at the north and south limits of that
overlay in the Capitol South receiving zone, area, excuse me, the receiving zone
area with a potential of 110 to 130 feet in height was cheek to jowl, really, with two
story residential dwellings.

27 And that, even though 90 feet is no bargain, which is what

existing zoning would allow, to go beyond that seems like going in the wrong direction next to those houses. And it's easily resolved by just drawing up the boundary straight down Second Street, rather than going east of Second Street on those few properties that, that are across Second Street and that are zoned C3C.

5 The two properties on the south, were rezoned recently as part of a most recent Comp Plan map amendment, per the council's direction. But they are very slender, very, very, very shallow properties, and they are literally up against two-story dwellings that are part of the housing project.

9 COMMISSIONER PARSONS: So you would have us move the line over, then?

11 MR. COLBY: To Second Street. Yes.

12 CHAIRPERSON KRESS: Well, is 1709.18, as written, correct; or you're saying no, it is not?

14 MR. COLBY: It would leave out square 766, 769, and 800.

15 COMMISSIONER FRANKLIN: Intentionally.

16 MR. COLBY: Yes. To draw the line on Second Street would leave out those three.

18 CHAIRPERSON KRESS: So, your, OP's proposal is that 1709.18 read as it is with those three squares cut out?

20 MR. COLBY: Yes.

21 COMMISSIONER PARSONS: Seven sixty-six, sixty-eight, and eight hundred?

23 CHAIRPERSON KRESS: No, 69 and 800. Seven sixty six, sixty-nine.

25 MR. COLBY: The last three squares on the advertised.

26 COMMISSIONER PARSONS: All right.

27 CHAIRPERSON KRESS: Are you comfortable with that? All

right, then we have a consensus among ourselves on number eight, with the change eliminating, on 1709.18, eliminating squares 766, 769, and 800. All right.

3 Number nine, since now I think we're kind of following the notice of public hearing, number nine is amending the zoning map regarding square 491.

5 MS. PRUITT-WILLIAMS: Excuse me, Madam Chair. Could you repeat the last, number eight, please? Eliminating squares.

7 CHAIRPERSON KRESS: Eliminating squares number 766, 769, and 800.

9 MS. PRUITT-WILLIAMS: Thank you.

10 CHAIRPERSON KRESS: And then, number nine, since we're following the numbering, at this point, of the notice of public hearing, number nine is amending the zoning map by rezoning square 491 on the map as well, which we've already discussed and said we were in agreement.

14 Perhaps, then, I would ask for a motion that would formalize, and I'd be happy to make it. I have the notes, if you would like. Why don't I do that?

16 I would make a motion regarding case number 97-14Z that we accept as written, was written, in the notice of public hearing, as advertised, items number one, two, four, five, six, seven, eight, with the change of elimination of the three squares that are 766, 769, and 800, and number nine, as written.

20 Is that, is the motion clear?

21 COMMISSIONER PARSONS: So moved.

22 CHAIRPERSON KRESS: Is there -- I moved it. Okay. I moved it and you would second.

24 COMMISSIONER FRANKLIN: Seconded.

25 CHAIRPERSON KRESS: Commissioner Franklin seconds. All those in favor, signify by saying aye.

27 (Chorus of ayes)

1 Opposed?

2 (No response)

3 Motion carries. Would you record the vote?

4 MS. PRUITT-WILLIAMS: Staff would record the vote as being
made by Mrs. Kress, seconded by Mr. Franklin, three to zero to approve. All except
for item three.

7 CHAIRPERSON KRESS: Item three. And item eight as
modified.

9 All right. Any other discussion? Hearing none, I will call the
public.

11 COMMISSIONER FRANKLIN: Before you do that. Madam
Chair, I want to discuss what to do with --.

13 CHAIRPERSON KRESS: Item three? Yes.

14 COMMISSIONER FRANKLIN: Which we haven't acted on.

15 CHAIRPERSON KRESS: I had proposed earlier to readvertise
item three, so that our colleagues could hear the whole case and have an
opportunity to examine and question the participants themselves prior to making the
final decision.

19 COMMISSIONER PARSONS: I think we should do that in the
fall. I don't see any, I guess I'm quite hopeful that we'll get some further guidance
from the comprehensive plan, or other things going on in the community to achieve
this objective and for us to conduct hearings in the middle of that, I'm not sure is very
helpful.

24 COMMISSIONER FRANKLIN: Not having gotten very good
guidance from the 94 comp plan amendments on this subject, you're hopeful --.

26 COMMISSIONER PARSONS: You're afraid it will go to 60%,
aren't you?

1 COMMISSIONER FRANKLIN: We may get better guidance in
98 if we ourselves may make some suggestions. But, you know, whatever the chair
thinks is desirable is fine with me.

4 CHAIRPERSON KRESS: Well, it sounds like we are in
agreement for a rehearing. It's a matter of when. And perhaps we need a little more
investigation ourselves on the status of some of these other endeavors that appear
to be going on.

8 So, I would suggest that we just say we will schedule another
hearing and then check for ourselves on the other kinds of studies going on and
then, on the basis of that, we will set down another time.

11 COMMISSIONER FRANKLIN: So our colleagues understand
the drama that awaits them, we are postponing action on a matter so the two of you
can join us in hearing all about how to get more housing downtown.

14 MS. PRUITT-WILLIAMS: Excuse me, Madam Chair, are you
postponing action, are you going to bifurcate the case, or do want to hold the whole
thing off?

17 CHAIRPERSON KRESS: Yes. No, I believe we've just
bifurcated the case. Excuse me.

19 MS. PRUITT-WILLIAMS: Just wanted to be sure that we were
going to move forward that way.

21 CHAIRPERSON KRESS: Any objection from my colleagues?
Any further discussion? Hearing none, I call the special meeting regarding case 97-
14Z closed. Thank you.

24

25 (Whereupon, the above entitled special meeting of the District of
Columbia Zoning Commission was concluded at 7:07 p.m.)