

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



MEMORANDUM

OFFICE OF THE SECRETARY
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To: Office of Documents and Administrative Issuance
From: Sharon S. Schellin³
Secretary to the Zoning Commission
Date: December 4, 2008
Re: Publication for the Office of Zoning

Please publish the following in the *D.C. Register* on December 12, 2008:

1. Notice of Proposed Rulemaking (Case No. 08-18);
2. Z.C. Order No. 06-46A; and
3. Z.C. Order No. ~~07-31~~ ⁴

Attachment

ZONING COMMISSION
District of Columbia

CASE NO. 07-31
EXHIBIT NO. 26

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ZONING COMMISSION
District of Columbia
CASE NO. 07-31
EXHIBIT NO. 26

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

ZONING COMMISSION ORDER NO. 07-31

Z.C. Case No. 07-31

(Application of Joseph C. Young, *et. al.* –

Map Amendment at Square 416, Lots 24, 25, 26, 27, 821, and 822)

October 20, 2008

Pursuant to public notice, the Zoning Commission for the District of Columbia (the “Commission”) held a public hearing on February 28, 2008, pursuant to § 102 of Title 11 of the District of Columbia Municipal Regulations (“DCMR”), to consider an application from Joseph C. Young, Ralph Higgs, Jr., and 717–721 T Street, N.W., LLC (the “Applicants”). The application requested review and approval of an amendment to the Zoning Map of the District of Columbia to change the zoning for Square 416, Lots 24, 25, 26, 27, 821, and 822 (“Property”), from R-4 to the C-1 or a C-2 Zone District. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022.

FINDINGS OF FACT

1. The Applicants are owners of Lots 24, 25, 26, 27, 821, and 822, in Square 416.
2. Lots 24, 25, 26, 27, 821, and 822 occupy approximately 3,420 square feet in the southwest corner of Square 416, where T Street, N.W. intersects with 8th Street, N.W. They are developed with one-story commercial buildings fronting T Street, N.W. Immediately to the east lies Lot 801, a vacant lot. Lot 801 was formerly a ten-foot-wide alley that is now closed. The five properties to the north along 8th Street, N.W. are developed with two-story row dwellings. To the south across T Street, N.W. is an elementary school. All of these properties are zoned R-4 and are included in the Greater U Street Historic District.
3. East of Square 416, Lot 801 is a lot developed with a CVS Pharmacy that fronts on 7th Street, N.W. and Florida Avenue, N.W. The remainder of Square 416 is occupied by a large vacant lot fronting on Florida Avenue, and 8th Street, N.W. owned by the Washington Area Metropolitan Area Transit Authority (“WMATA”). Both of these properties are zoned in the C-2-B Zone District and are included in the ARTS Overlay District.
4. By memorandum dated February 29, 2008, and through testimony at the public meeting held on March 10, 2008, the Office of Planning (“OP”) recommended that the Zoning Commission set down the application for a map amendment for Lots 24, 25, 26, 27, 821, and 822, in Square 416, for a hearing to consider rezoning to ARTS/C-2-B, and to consider a rezoning to the C-2-A Zone District, as an alternative. OP further recommended that the Commission add Lot 801, in Square 416 to the rezoning case.
5. The Commission set the case down for a public hearing at its March 10, 2008 public meeting as a contested case. The Commission adopted OP’s recommendation that the Commission would consider rezoning the Property and that the Commission would consider rezoning the Property to either the ARTS/ C-2-B or the C-2-A Zone District.

6. Notice of the public hearing was provided in accordance with the provisions of 11 DCMR §§ 3014 and 3015.
7. On July 21, 2008, the Commission held a public hearing on the application. Norris Dodson, Frederick Scarboro, and Joseph Young testified in support of their application. The Applicants stated their request was to rezone the Property to a Commercial Zone District to allow for re-establishment of commercial uses on the properties, several of which have been vacant for some time. These properties had been occupied with commercial uses since at least 1954, and probably much earlier. There is no evidence that the current buildings have ever been occupied by residential uses.
8. OP recommended in its final report dated July 9, 2008, and through testimony at the public hearing, rezoning the Property to the C-2-A Zone District. The OP report stated that the C-2-A Zone District was the appropriate choice in terms of use intensity, massing, and creating a transition from development along Georgia Avenue (which becomes 7th Street one block from the Property) to the R-4 zoned residential neighborhood to the west. The report stated that the Future Land Use Map of the District Elements of the Comprehensive Plan for the National Capital ("Comprehensive Plan") designates the Property for mixed-use consisting of low-density commercial and moderate-density residential development, and that the Zone Districts that correspond to this classification are C-2-A, C-2-B, and C-3-A. The Property also falls within the Neighborhood Enhancement Area corridor on the Generalized Policy Map between 9th Street and Georgia Avenue, N.W. The guiding philosophy of the Neighborhood Enhancement Area is to ensure new development fits in and is responsive to the existing character, natural features, and existing/planned infrastructure capacity. OP also cited land use policy LU-2.3.4: Transitional and Buffer Zone Districts from the Comprehensive Plan, which is to "maintain mixed use zone districts which serve as transitional or buffer areas between residential and commercial districts, and which also may contain institutional, non-profit, embassy/chancery, and office-type uses. Zoning regulations for these areas ... should ensure that development is harmonious with its surroundings, achieves appropriate height and density transitions, and protects neighborhood character." Finally, the OP report cited §§ 720.3 and 720.4 of the Zoning Regulations, which state that the C-2-A Zone District are to be located in low- and medium-density residential districts and permit development of medium proportions, in support of its recommendation of C-2-A zoning.
9. Advisory Neighborhood commission ("ANC") 1B, the ANC in which the Subject Property is located, did not submit a written recommendation in this case.
10. At the conclusion of the public hearing on July 21, 2008, the Commission took proposed action to approve the map amendment by a vote of 5-0-0.

11. Pursuant to the District of Columbia Home Rule Act, the Commission referred the application to the National Capital Planning Commission ("NCPC") for review and comment. By report and letter dated September 10, 2008, NCPC found that the proposed map amendment is not inconsistent with the Comprehensive Plan for the National Capital, nor would it adversely affect any other identified federal interests.
12. The Commission finds that the proposed map amendment is not inconsistent with the Comprehensive Plan.

CONCLUSIONS OF LAW

The Zoning Commission's authority to amend the Zoning Map derives from the Zoning Act of 1938, effective June 20, 1938 (52 Stat. 797, D.C. Official Code § 6-641.01) ("Zoning Act"). Section 1 of the Zoning Act authorizes the Commission to regulate the uses of property in order to "promote the health, safety, morals, convenience, order, prosperity, or general welfare of the District of Columbia and its planning and orderly development as the national capital." D.C. Official Code § 6-641.01. Section 2 of the Zoning Act provides that the "zoning regulations shall be designed to lessen congestion on the street, to secure safety from fire, panic, and other dangers to promote health and the general welfare, to provide adequate light and air, to prevent the undue concentration and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection of property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. 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 for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein." D.C. Official Code § 6-641.02. Section 3 of the Zoning Act, among other things, authorizes the Commission to amend the zoning regulations and maps. D.C. Official Code § 6-641.03.

The Commission concludes that approval of an amendment to the C-2-A Zone District is consistent with the purposes of the Zoning Act. The rezoning creates a transition from the R-4 Districts in the residential neighborhood to the west, to the commercial corridors along Florida Avenue, N.W. and Seventh Street, N.W. The C-2-A Zone District is designed to be located in medium-density residential areas, 11 DCMR § 720.2, and to accommodate existing commercial strip developments. (11 DCMR § 720.5.)

In amending the Zoning Map, the Commission is constrained by the limitation in the District Charter that the Zoning Map be "not inconsistent" with the Comprehensive Plan. (§ 492(b)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 6-641.02).) The Commission concludes that approval of the requested map amendment is not inconsistent with the Comprehensive Plan. The requested map amendment

further the goals of the Comprehensive Plan, and promotes orderly development in conformity with the Zone Plan as embodied in the Zoning Regulations and Map.

The Commission concludes that the requested map amendment is in the best interests of the District of Columbia and will benefit the community in which the Property is located.

The Commission is required under D.C. Official Code § 1-309.10(d) to give great weight to the affected ANC's written recommendation. ANC 1B did not make a written recommendation in this case.

The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code §6-623.04) to give great weight to OP recommendations. The Commission concurs with the OP's recommendation for rezoning the Subject Property to the C-2-A Zone District, and has given its recommendation the great weight to which it is entitled."

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the application for an amendment of the Zoning Map to change the zoning of Lots 24, 25,

26, 27, 801, 821, and 822 in Square 416 from the R-4 Zone District to the C-2-A Zone District.

At the public hearing on July 21, 2008, the Zoning Commission voted to **APPROVE** the application for proposed action by a vote of 5-0-0 (Anthony Hood, Gregory N. Jeffries, Michael G. Turnbull, Peter May, and Curtis Etherly, Jr. to approve).

The Order was **ADOPTED** by the Zoning Commission at its public meeting on October 20, 2008, by a vote of 4-0-1 (Anthony J. Hood, Gregory N. Jeffries, Michael G. Turnbull, and Peter G. May to adopt; Curtis L. Etherly, not present, not voting).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register* on _____.