

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 18-08
Z.C. Case No. 18-08
BSREP II Dupont Circle LLC
(Map Amendment @ 1143 New Hampshire Avenue, NW (Lot 74, Square 72))
[December 17, 2018]

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on October 25, 2018 to consider an application by BSREP II Dupont Circle LLC (“Applicant”) for approval of a Zoning Map Amendment pursuant to Subtitle X, Section 500.1 of the District of Columbia Zoning Regulations (“Zoning Regulations”), Title 11 of the District of Columbia Municipal Regulations. The application is to amend the Zoning Map from the RA-5 zone district to the MU-10 zone district for Lot 74 in Square 72.

The Commission considered the application for the Map Amendment pursuant to Subtitles X and Z of the Zoning Regulations. The public hearing was conducted in accordance with the provisions of 11-Z DCMR § 400, *et seq.* As discussed below, no party, person, or entity appeared in opposition to the application at the public hearing. Accordingly, a decision by the Commission to grant this application would not be adverse to any party, and pursuant to 11-Z DCMR § 604.7, the Commission waives the requirements for findings of facts and conclusions of law. As set forth below, the Commission hereby approves the application.

Application, Parties, and Hearing

1. On June 12, 2018, the Applicant filed an application for approval of the Map Amendment. (Exhibits 1, 2.)
2. The property that is the subject of the Map Amendment consists of Lot 74 in Square 72 (“Property”). (Exhibit 2.)
3. The Property is currently in the RA-5 zone district. The Property is in the following land use categories on the Future Land Use Map of the Comprehensive Plan: Mixed Use, High Density Residential and High Density Commercial. (Exhibits 2, 2B, 2C.)
4. Prior to filing the application, on April 23, 2018, the Applicant mailed a notice of intent to file the map amendment application to all property owners within 200 feet of the Property as well as Advisory Neighborhood Commission (“ANC”) 2A. Also prior to filing the application, the Applicant contacted ANC 2A. Accordingly, the Applicant satisfied the notice requirements of 11-Z DCMR §§ 304.5, 304.6. (Exhibit 2D.)

5. The application satisfied the filing requirements of 11-Z DCMR § 300 et seq. (Exhibit 2E.) The application also included extensive explanation of the individual policy objectives of the Comprehensive Plan with which the application is consistent. There is no evidence in the record that the application is in any way inconsistent with the Comprehensive Plan.
6. On July 31, 2018, the Commission set the case down for a public hearing based on the recommendation of the Office of Planning (“OP”). (Exhibit 10.)
7. On August 1, 2018, the Applicant filed a pre-hearing statement that requested a public hearing and detailed the Applicant’s planned presentation for the hearing, and the Applicant proffered Ellen McCarthy as an expert in land use planning. (Exhibit 11.)
8. Notice of the public hearing was provided in accordance with the requirements of 11-Z DCMR § 400 et seq. (Exhibits 13, 14, 15, 17.)
9. On October 5, 2018, the Applicant filed a supplemental prehearing submission that provided further information in response to a question from the Commission. (Exhibit 21.)
10. The Property is located entirely within ANC 2A. At a duly noticed public meeting with a quorum present, the ANC voted in support of the application and submitted a report in support. (Exhibit 25.)
11. On October 25, 2018, the Commission held a public hearing in accordance with 11-Z DCMR § 408 and accepted Ms. McCarthy as an expert in land use planning. (Transcript of Public Hearing, Case No. 18-08 at [page x] (District of Columbia Zoning Commission, Oct. 25, 2018).)
12. No person, party, or entity appeared in support of or in opposition to the application.
13. OP and the District Department of Transportation each submitted reports in support of the application, and OP testified in support. (Exhibits 21, 22.)
14. Pursuant to 11-Z DCMR § 506.5, at the close of the public hearing, the Commission took proposed action to approve the application.
15. On [October __], 2018, the Commission referred the proposed map amendment to the National Capital Planning Commission (“NCPC”) for review and comment pursuant to the District of Columbia Home Rule Act of 1973, as amended, 87 Stat. 790, Pub. L. No. 93-198, D.C. Code Section 1-201 et seq. (Exhibit __.)
16. By report dated _____, 2018, NCPC determined that the proposed map amendment was not inconsistent with the Comprehensive Plan for the National Capital and other federal interests. (Exhibit __.)

Pursuant to 11-Z DCMR § 408.8, the Commission has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for approval of a Zoning Map amendment pursuant to 11-X DCMR § 500.

As required by law, the Commission must give “great weight” to the recommendations of OP as well as ANC 2A, as the affected ANC, which is satisfied by the Commission acknowledging the written reports of OP and ANC 2A, and their unanimous support for the instant application. The Commission finds this evidence to be persuasive.

Based upon the record before the Commission, the Commission concludes that the proposed map amendment from the RA-5 zone district to the MU-10 zone district is not inconsistent with the Comprehensive Plan, where the Property is located within the Mixed Use, High Density Residential, and High Density Commercial categories on the Future Land Use Map of the Comprehensive Plan and furthers multiple policies of the Comprehensive Plan. Pursuant to 11-X DCMR § 500.3, the Commission concludes that the map amendment is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the Property, as detailed in the application and in the OP Report.

DECISION

On October 25, 2018, upon the motion of Commissioner May, as seconded by Commissioner Miller, the Zoning Commission took **PROPOSED ACTION** and **APPROVED** the application at the close of the public hearing by a vote of 5-0-0 (Anthony J. Hood, Robert E. Miller, Peter G. May, Peter A. Shapiro, and Michael G. Turnbull to approve).

On [December 17, 2018], upon the motion of _____, as seconded by _____, the Zoning Commission took **FINAL ACTION** and **APPROVED** the application at its public meeting by a vote of []-[]-[] (_____).