

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 20-22
Z.C. Case No. 20-22
CQ Metro Land, LLC
(Zoning Map Amendment @ Square 5860, Lots 1039, 1040, & 1041)
October 28, 2021

Pursuant to notice, at its September 27, 2021 public hearing, the Zoning Commission for the District of Columbia (“Commission”) considered the application (the “Application”) of CQ Metro Land, LLC (the “Applicant”) pursuant to Subtitle X § 400.1 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations (“DCMR”), Zoning Regulations of 2016, to which all references are made unless otherwise specified) to amend the Zoning Map from unzoned to the Northern Howard Road (NHR) Zone for Square 5860, Lots 1039-1041 (the “Property”). For the reasons set forth below, the Commission hereby **APPROVES** the Application.

SUMMARY ORDER

The Applicant, Advisory Neighborhood Commission (“ANC”) 8A, in which the Property is located, and ANC 8C, which is across the street from the Property, were automatically parties to the proceeding pursuant to Subtitle Z § 403.5. Both ANCs are an “affected ANC” per Subtitle Z § 101.8. The Commission received no requests for party status.

Pursuant to Subtitle Z § 301.6, the Applicant mailed a Notice of Intent to file the Application (Exhibit [“Ex.”] 3C.) on July 22, 2020 to ANC 8A, ANC 8C, and the owners of all property within 200 feet of the Property. Pursuant to Subtitle Z § 402, the Office of Zoning (“OZ”) sent notice of the April 1, 2021 public hearing on January 14, 2021 and published notice of the public hearing in the December 31, 2020 *D.C. Register* as well as on the calendar on OZ’s website. (Ex. 15-17.) The hearing was delayed three times. The first two times, OZ sent new notices of the hearing. (Ex. 22-24, 27, 28, 30.) The third request to delay the hearing was granted on open record at the July 19, 2021 public hearing of the Commission. (Ex. 32.)

The Property consists of three lots in Square 5860 – Lots 1039, 1040, and 1041. Lots 1039 and 1041 are owned by the Applicant. Lot 1040 is owned by the Washington Metropolitan Area Transit Authority (“WMATA”), which authorized the Application. (Ex. 3B.)

The Property is currently unzoned. The Property is designated on the Future Land Use Map of the Comprehensive Plan for Mixed Use: High Density Residential, High Density

Commercial, and Institutional uses in the Central Employment Area. (09/27/21 Hearing Transcript [“Tr.”] at 21, 24.)¹

On September 8, 2020, the Applicant filed a petition for approval of the Map Amendment to the NHR zone. (Ex. 1, 2, 3.) The petition satisfied the filing requirements of Subtitle Z § 300 *et seq.* (Ex. 3H.)

On December 7, 2020, the Office of Planning (“OP”) recommended set down of the Application and explained that the proposed map amendment was not inconsistent with the Comprehensive Plan. (Ex. 10.)

On December 17, 2020, the Commission set the case down as a contested case for a public hearing. (Ex. 13.)

On December 28, 2020, the Applicant filed a supplemental submission that requested a public hearing and detailed the Applicant’s planned presentation for the hearing. The Applicant filed an additional supplemental submission on March 12, 2021, providing the Commission with updates regarding community outreach. (Ex. 14, 20.)

The Property is located within ANC 8A and adjacent to ANC 8C. ANCs 8A and 8C each submitted a letter in support in December of 2020, noting that at a duly noticed public meeting with a quorum present for each ANC, the ANCs voted in support of the Application. (Ex. 11, 12.) After the hearing postponements noted above, ANC 8A submitted a second report in support, noting that at a duly noticed public meeting with a quorum present, the ANC voted unanimously in support of the Application. (Ex. 37.)

On September 27, 2021, the Commission held a public hearing in accordance with Subtitle Z § 408. Three witnesses testified in support of the Application at the hearing, and one of those witnesses filed their testimony in support in the record. (Ex. 38, 39.) No person, party, or entity appeared in opposition to the Application at the public hearing.

OP submitted a March 22, 2021 report in support of the Application (“OP Report”), including comments of no objection from the District Department of Transportation and the Metropolitan Police Department. OP’s Report concluded that the Application was not inconsistent with the Comprehensive Plan. (Ex. 25.) At the September 27, 2021 public hearing, OP testified that it continued to find the Application to be not inconsistent with the Comprehensive Plan, including the update amending the Property’s designation on the Future Land Use Map, effective as of August 2021.

Pursuant to Subtitle Z § 408.11, at the close of the September 27, 2021 hearing, the Commission took proposed action to approve the Application.

¹ Between the Commission’s set down of the case for public hearing and the public hearing, the DC Council adopted amendments to the Comprehensive Plan, including the Future Land Use Map, which affected the Property. Because the revised Comprehensive Plan was effective prior to the public hearing, all references in this Order are to the revised Comprehensive Plan, effective as of August 2021.

On September 28, 2021, 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.* (Ex. 40.)

By report dated October 27, 2021, NCPC found that the proposed map amendment is exempt from review by NCPC because it meets the requirements of exception 12 in Chapter 8 of NCPC’s Submission Guidelines. (Ex. 42.)

Based upon the record before the Commission, the Commission concludes that the proposed map amendment from unzoned land to the NHR zone, where the Property is designated for Mixed Use: High Density Residential, High Density Commercial, and Institutional uses in the Future Land Use Map of the Comprehensive Plan and in the Central Employment Area of the Comprehensive Plan, furthers multiple policies of the Comprehensive Plan. Pursuant to Subtitle X § 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 and OP’s testimony at the September 27, 2021 public hearing.

As required by law, the Commission gives “great weight” to the recommendations of OP that the Application satisfies the requirements for a map amendment, and the Commission concurs in that judgment.

As also required by law, the Commission gives “great weight” to the support of ANC 8A and ANC 8C, which was provided in written reports of both affected ANCs that were respectively approved by the full ANCs at properly-noticed meetings that were open to the public with quorums present, and the Commission concurs with the ANCs’ support.

Since no persons or parties appeared in opposition to the Application and the affected ANCs supported the Application, a decision by the Commission to grant this application would not be adverse to any party. Therefore, pursuant to Subtitle Z § 604.7, the Commission authorized a Summary Order in this case and determined it may waive the requirement that findings of fact and conclusions of law accompany the Order because such waiver will not prejudice the rights of any party. Based upon the record before the Commission, and having considered and given great weight to the reports of OP, ANC 8A, and ANC 8C, the Commission concludes that the Applicant has met the burden of satisfying the applicable standards under Subtitle X § 500, which are requirements for a map amendment.

DECISION


In consideration of the record, the Zoning Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application to amend the Zoning Map as follows:


SQUARE	LOTS	MAP AMENDMENT
5860	1039, 1040, 1041	Unzoned to NHR Zone

On September 27, 2021, upon the motion of Vice Chair Miller, as seconded by Commissioner Shapiro, the Zoning Commission took **PROPOSED ACTION** and **APPROVED** the application at the close of the public hearing by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, and Peter G. May to approve; representative of the Architect of the Capitol, not present, not voting).

On October 28, 2021, upon the motion of Commissioner May, as seconded by Commissioner Shapiro, the Zoning Commission took **FINAL ACTION** and **APPROVED** the application at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, and Peter G. May to approve; representative of the Architect of the Capitol, not present, not voting).

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 20-22 shall become final and effective upon publication in the *D.C. Register*; that is, on January 7, 2022.


 ANTHONY J. HOOD
 CHAIRMAN
 ZONING COMMISSION


 SARA A. BARDIN
 DIRECTOR
 OFFICE OF ZONING