

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF: :
Zoning Consistency Case to : Case No.
Rezone Portions of the : 07-30
Marshall Heights Area :
-----:

Monday,
March 3, 2008

Hearing Room 220 South
441 4th Street, N.W.
Washington, D.C.

The Public Hearing of Case No.
07-30 by the District of Columbia Zoning
Commission convened at 6:30 p.m. in the
Office of Zoning Hearing Room at 441 4th
Street, N.W., Washington, D.C., 20001,
Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman
GREGORY N. JEFFRIES, Vice Chairman
CURTIS L. ETHERLY, JR., Commissioner
MICHAEL G. TURNBULL, FAIA,
Commissioner (OAC)
PETER MAY, Commissioner (NPS)

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

JOEL LAWSON

JOHN MOORE

The transcript constitutes the minutes from the public hearings held on March 3, 2008.

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proposed action

1 P-R-O-C-E-E-D-I-N-G-S

2 6:36 p.m.

3 CHAIRMAN HOOD: Good evening,
4 ladies and gentlemen.

5 This is a Public Hearing of the
6 Zoning Commission of the District of Columbia
7 for Monday, March 3rd, 2008. My name is
8 Anthony J. Hood.

9 Joining me this evening are Vice
10 Chairman Jeffries, Commissioner Etherly,
11 Commissioner Turnbull and Commissioner May.

12 We are also joined by the Office
13 of Zoning staff with Sharon Schellin and also
14 the Office of Planning staff, Mr. Lawson and
15 also Mr. Moore.

16 Welcome, Mr. Moore. I think we've
17 seen you in awhile. Okay. Rare visit. Well,
18 it's good to have you. Okay.

19 This proceeding is being recorded
20 by a Court Reporter and is also webcast live.
21 Accordingly, we must ask you to refrain from
22 any disruptive noises or actions in the

1 hearing room.

2 The subject of this evening's
3 hearing is Zoning Commission Case No. 07-30.
4 This is a request for the Office of Planning
5 for amendments to the Zoning Map.

6 Notice of today's hearing was
7 published in the D.C. Register on January
8 18th, 2008, and copies of the announcement are
9 available to my left on the wall bin near the
10 door.

11 The hearing will be conducted in
12 accordance with provisions of 11 DCMR 30.21 as
13 follows. Preliminary matters, presentations
14 by the Office of Planning, reports of other
15 Government agencies, if any, report of ANC-7A
16 and 7C, organizations and person in support,
17 organizations and persons in opposition.

18 The following time constraints
19 will be maintained in the hearing.
20 Organizations five minutes, individuals three
21 minutes.

22 The Commission intends to adhere

1 to the time limits as strictly as possible in
2 order to hear the case in a reasonable period
3 of time. The Commission reserves the right to
4 change the time limits for presentation, if
5 necessary, and notes that no time shall be
6 seeded.

7 All persons appearing before the
8 Commission are to fill out two witness cards.
9 These cards are located to my left on the
10 table near the door. Upon coming forward to
11 speak to the Commission, please give both
12 cards to the reporter sitting to my right
13 before taking a seat at the table.

14 When presenting information to the
15 Commission please turn on and speak into the
16 microphone, first stating your name and home
17 address. When you are finished
18 speaking, please turn your microphone off so
19 that your microphone is no longer picking up
20 sound and background noise.

21 The decision of the Commission in
22 this case must be based exclusively on the

1 public record. To avoid any appearance to the
2 contrary, the Commission requests that persons
3 present not engage the members of the
4 Commission in conversation during any recess
5 or at anytime.

6 The staff will be available
7 throughout the hearing to discuss procedural
8 questions.

9 Please turn off all beepers and
10 cell phones at this time so not to disrupt
11 these proceedings.

12 Also, I see Mr. Travis Parker in
13 the audience from the Office of Planning.
14 He's trying to move around on me but I spotted
15 you.

16 At this time the Commission will
17 consider any preliminary matters.

18 Does the staff have any
19 preliminary matters?

20 SECRETARY SCHELLIN: No, sir.

21 CHAIRMAN HOOD: Okay. I guess
22 we'll turn it over to Mr. Moore.

1 MR. MOORE: Good evening, Mr.
2 Chair, and Members of the Zoning Commission.

3 CHAIRMAN HOOD: Good evening.

4 MR. MOORE: I'm John Moore with
5 the Office of Planning. And we are pleased to
6 present this setdown, this final report to the
7 Zoning Commission that's intended to change
8 some of the R-5-A zoning in the Marshall
9 Heights community, Ward 7 from the existing R-
10 5-A to R-2 in some cases and in other cases
11 R-3.

12 The Office of Planning considered
13 this a zoning consistency case based on
14 policies in the Comprehensive Plan, the
15 guidance come from that actually asked for
16 changes in some of the existing zoning to make
17 it more in -- more compatible with the
18 existing patterns of development that existing
19 area right now.

20 What you'll find in the Marshall
21 Heights community is that where it was
22 developed initially as a single-family

1 neighborhood over time, especially since the
2 1960s, the development pattern has gone more
3 to apartment buildings.

4 Apartment buildings are not bad in
5 themselves. I have in many cases apartment
6 buildings are being put in to areas where
7 there are bungalows and two-story structures--
8 single-family structures. Totally
9 incompatible uses.

10 The Comprehensive Plan is
11 recommended -- has many policies that are in
12 your packet that talks about how those changes
13 could take place and when.

14 There is very strong support in
15 the plan for infield development of our vacant
16 lots. However, the issue is how those lots
17 ought to be developed.

18 If they are developed with more
19 apartments which the community is totally
20 opposed, that is an incompatibility and the
21 Office of Planning considered those use to be
22 inconsistent.

1 What we are proposing is that in
2 some of those areas that are currently zoned
3 R-5-A be changed to R-2 and we put two maps
4 before you. The first one that's marked 07-30
5 Marshall Heights area sort of defined the
6 areas that we want to see changed from R-5-A
7 to R-3. That the broader piece in gold or red
8 boundary.

9 And in other cases, the area that
10 you see at the lower end of the map along the
11 Benning Road corridor and at the Benning Road
12 and Texas Avenue, the adjacent zoning more low
13 density residential propose they go to R-2.

14 As I mentioned, the Comprehensive
15 Plan again references that same map recommends
16 that these areas change in zoning to become
17 more compatible with low density designation
18 that you see on the map here.

19 There is a second map in your
20 packet where the existing zoning -- this is
21 not R-A is basically blue pattern that you see
22 all over the map. Those are the areas that

1 you see where again there is a margin around
2 them that will be proposed to go from R-2 to
3 R-3 -- I mean, to R-2 in some cases, that is
4 the upper portion. Principally, south of
5 Central Avenue -- excuse my voice. I have a--
6 and north of St. Louis Place with Southern
7 Avenue being the eastern boundary.

8 That's the area that we propose to
9 go from R-5-A to R-3.

10 The question would come up, why
11 not R-2 because R-2 is the adjacent zone right
12 now. It's one thing to change a density down
13 but keep in mind we're trying to in terms of
14 the vision in the plan make sure that when the
15 changes take place that those who inhabit the
16 area now will be able to continue to live
17 there. And to go from R-5-A down to R-2 or R-
18 1 would be a drastic change. And I already
19 mentioned isn't compatible with what the
20 actual plan calls for.

21 I know I'm missing some salient
22 points here because I want to see this get

1 done.

2 I wonder if there's any questions
3 you have.

4 CHAIRMAN HOOD: Okay. Thank you
5 very much, Mr. Moore. And I think that's a
6 good way that we need to move. You hit most
7 of the highlights for us.

8 And what we'll do is see if my
9 colleagues have any questions.

10 But let me start off, Mr. Moore,
11 by saying I want to thank you for bringing
12 this -- I know I'm sure Commissioner Etherly
13 would probably be able to expound on it much
14 more than I have but the few times that I've
15 sat on the BZA and I noticed -- I kept
16 wondering why always the same cases kept --
17 the same type of cases kept showing up and
18 kept showing up and kept showing up.

19 I think that the Office of
20 Planning -- I want to applaud the Office of
21 Planning because I did bring this to the
22 Zoning Commission and mentioned that we asked

1 the OP to do a study. And I want to thank
2 you, Mr. Moore, for making sure that this was
3 followed through. I think it was worked on
4 for about a year or so or maybe shorter, you
5 know, but anyway. I want to thank you for
6 bringing this to us and I think this was, I
7 won't say long overdue, but it's time to make
8 this change. And I'm sure that the Board of
9 Zoning Adjustment -- depends on how we move.
10 I'm sure that the Board of Zoning Adjustment
11 would definitely appreciate it if maybe it
12 would their Tuesdays a little shorter, not
13 much but a little bit.

14 Okay. So, I'm going over to my
15 colleagues.

16 Any questions for Mr. Moore?

17 Commissioner Jeffries.

18 VICE CHAIRMAN JEFFRIES: A quick
19 question.

20 I think maybe I saw it but I just
21 want to be clear.

22 So, what -- with this map

1 amendment, how many non-conforming structures
2 are we talking about in this area? Do you
3 have a sense of that?

4 MR. MOORE: We have a sense of
5 that.

6 We did some preliminary numbers
7 that looked at each lot on a particular
8 square. And it looked like about seven
9 percent of the lots in the combined squares
10 would be made non-conforming by this action.

11 VICE CHAIRMAN JEFFRIES: They will
12 become non-conforming once we down zone?

13 MR. MOORE: Yes.

14 VICE CHAIRMAN JEFFRIES: Okay.
15 Seven percent?

16 MR. MOORE: About seven percent.

17 VICE CHAIRMAN JEFFRIES: Okay.
18 Thank you.

19 MR. LAWSON: If I can just add to
20 that. Joel Lawson of the Office of Planning.

21 John -- John's study went to great
22 lengths to identify areas that are already

1 predominately not a rowhouse or a single
2 family and that's why you'll see large areas
3 of the R-5-A are being proposed to change
4 because they basically already have gone
5 through the change. They basically mainly
6 apartment now. So, we tried to focus in on
7 the areas where -- where it wasn't
8 predominately apartment and where there were
9 vacant lots that where it made the most sense.
10 Where it would have the most impact to make
11 the change.

12 CHAIRMAN HOOD: Commissioner
13 Turnbull.

14 COMMISSIONER TURNBULL: Thank you,
15 Mr. Chair.

16 Mr. Moore, getting back to
17 something that the chair had mentioned earlier
18 on some BZA cases. This reminds me of and I'm
19 not sure. I can't remember there were so
20 many, but I think you were sitting on them
21 where there was a lot of single family homes,
22 there's vacant lots and we kept seeing a

1 certain kind of apartment building show up
2 from one project to another just variations in
3 toto. It is similar to that kind of thing we
4 kept seeing?

5 MR. MOORE: It is. It's identical
6 to the --

7 COMMISSIONER TURNBULL: The same--
8 Okay. The same -- it's almost like a rubber
9 stamp that kept showing up time and time
10 again.

11 MR. MOORE: That's a good way to
12 put it. Yes.

13 COMMISSIONER TURNBULL: Okay.
14 Thank you.

15 CHAIRMAN HOOD: Any other
16 questions?

17 I made a mistake. I think I see a
18 -- this affects ANC 7-A and 7-E.

19 MR. MOORE: Yes.

20 CHAIRMAN HOOD: For some reason I
21 have 7-C. But thank you, Ms. Schellin for
22 correcting me.

1 Okay. Report of any other
2 Government agencies. I didn't see any. Okay.

3
4 Now, I'm going to ask the ANC --
5 report of the ANC 7-A and/or 7-E if you'd like
6 to come forward and give us your report.

7 Ms. Schellin, do we have a letter
8 from the ANC?

9 SECRETARY SCHELLIN: Not yet.

10 CHAIRMAN HOOD: Oh, not yet.
11 Okay.

12 Is there anyone here in opposition
13 to this case?

14 Anyone here in support?

15 Okay. Thank you.

16 Okay. Commissioner, turn your
17 microphone on, introduce yourself and you may
18 begin.

19 COMMISSIONER ROBINSON: Good
20 evening. My name is --

21 CHAIRMAN HOOD: Pull your mike
22 down so -- we want to make sure we hear you.

1 There you go. You need to pull it down a
2 little. There you go. Thank you.

3 COMMISSIONER ROBINSON: My name is
4 Naomi Robinson. I'm the Vice Chair of ANC 7-E
5 which is in Ward 7.

6 This is Case Number of 07-30, the
7 zoning consistency case to rezone portions of
8 the Marshall Heights area from R-5-A zone to
9 R-2 and R-3 zone.

10 On November the 13th, 2007, the
11 involved neighborhood commissioners met with
12 the Council of the District of Columbia,
13 Office of Planning and property owners of the
14 Marshall Heights and the Benning Road areas to
15 discuss the Comprehensive Plan proposed change
16 in the zoning process from R-5-A to R-2 and R-
17 3.

18 The residents of the Marshall
19 Heights area grievance is the developers are
20 engulfing their single-family homes,
21 homeowner's property by building R-5-A
22 apartment buildings around their property.

1 Mr. Moore and Mr. Travis Parker of
2 the Office of Planning explained to the
3 commissioners and the residents the process to
4 amend the zoning map from R-5-HR to NR-3. It
5 was recommended that the Office of Planning
6 petition the Zoning Commission for a map
7 amendment to rezone certain squares or
8 portions of squares within the Marshall
9 Heights area from R-5-A zone district to R-2
10 and R-2 district. The subject area is
11 characterized by a detached, semi-detached row
12 homes and apartment buildings.

13 There are a number of vacant sites
14 remaining in the Marshall Heights area and the
15 proposed amendment would allow such sites to
16 be developed with detached, semi-detached and
17 row structures to meet the predominant
18 neighborhood character.

19 The existing apartment buildings
20 would be grandfathered in so it would continue
21 to operate but would not be able to expand.

22 A motion was placed on the floor

1 by the Chair, Naomi Robinson so that Mr. Moore
2 and Mr. Parker could submit the amendment to
3 the Zoning Commission by November the 19th,
4 2007, for a possible hearing to take place.

5 The Advisory Neighborhood
6 Commission has seven commissioners. The vote
7 on the recommendation was unanimous.

8 We hope you will approve this for
9 zoning.

10 Thank you.

11 CHAIRMAN HOOD: Okay. Thank you
12 very much, Ms. Robinson, for coming out and
13 providing testimony. Just hold you r seat and
14 let me see if any of my colleagues have any
15 questions.

16 Commissioner May.

17 COMMISSIONER MAY: I actually had
18 a question for the Chairman.

19 For this sort of a report from the
20 ANC, I remember something about the letter
21 having to say that it was a public --

22 CHAIRMAN HOOD: Duly public --

1 COMMISSIONER MAY: -- noticed
2 meeting --

3 CHAIRMAN HOOD: And a quorum was
4 present?

5 COMMISSIONER MAY: Right. And so
6 I'm wondering if we could take that in
7 testimony and then accord the great weight
8 that is due here?

9 CHAIRMAN HOOD: You know, being a
10 community person, I used to be beat up on this
11 all the time. But I think what I would like
12 to do and I'll leave it up to my other four
13 colleagues, is to take the Vice Chairperson's
14 word on it. But I know that's not how it's
15 done all the time but you remember ANC
16 Commissioners are volunteers so are presidents
17 of civic associations which I am. We are
18 volunteers. So, we're going to do our best to
19 see if can make sure that it's accorded the
20 great weight.

21 And I hope I'm not setting a
22 precedent, that somebody else shows up and

1 says, well, you did it before.

2 COMMISSIONER MAY: Right.

3 CHAIRMAN HOOD: Anyway.

4 COMMISSIONER MAY: Well, then why
5 don't we just ask the question of Commissioner
6 Robinson.

7 Was this a regular meeting of the
8 ANC and was it duly noticed and advertised
9 that this meeting was going to occur?

10 COMMISSIONER ROBINSON: It was a
11 regular meeting and each person had attended
12 the November the 11th meeting had a notice of
13 this hearing tonight. I was advised to send
14 a letter to the Board.

15 COMMISSIONER MAY: That's fine.
16 Well, what I'm curious about is the ANC
17 meeting itself in which the vote was taken.
18 And you say it's a unanimous vote --

19 COMMISSIONER ROBINSON: Yes.

20 COMMISSIONER MAY: Okay. And then
21 I assume that seven -- seven commissioners
22 were present.

1 COMMISSIONER ROBINSON: All seven.

2 COMMISSIONER MAY: And that was
3 all seven?

4 COMMISSIONER ROBINSON: Yes.

5 COMMISSIONER MAY: Okay. So, that
6 certainly constitutes a quorum.

7 I'm satisfied, Mr. Chairman.

8 CHAIRMAN HOOD: And actually it
9 was pointed out to me -- actually, it's a
10 different way of phrasing it. But actually I
11 think they are in compliance if you look at
12 the second page.

13 COMMISSIONER MAY: Okay. That's
14 why I asked the question because I'm rusty on
15 this.

16 CHAIRMAN HOOD: It's a duly
17 noticed meeting and all --

18 COMMISSIONER MAY: Right. But,
19 Mr. Moore, you weren't there -- or leave well
20 enough alone? Okay. Okay.

21 All right.

22 Any other questions -- Vice Chair.

1 Again, thank you, Ms. Robinson --

2 COMMISSIONER ROBINSON: Thank you.

3 CHAIRMAN HOOD: -- for coming
4 here.

5 Okay. We don't have anything from
6 7-A and I think -- anyway. Okay.

7 Do we have anyone -- organizations
8 and persons in support that would like to
9 testify?

10 Any organizations or persons in
11 support that would like to testify?

12 Okay. Any organizations or
13 persons in opposition that would like to
14 testify?

15 See none. All right. Colleagues,
16 let's go because I think we can do this rather
17 quickly.

18 VICE CHAIRMAN JEFFRIES: Yes. Mr.
19 Chair. I'd like to make a motion that we
20 approve the proposed map amendment to rezone
21 specified properties in Marshall Heights area
22 from R-5-A to R-2 or R-3 District. And I

1 would have the Commission note table 1 on the
2 Office of Planning's memo dated February 22nd,
3 2008, as to the exact squares and portions or
4 squares that are to be rezoned from R-5-A to
5 R-2 and R-3.

6 The proposed map amendment would
7 allow for zoning to be consistent with the
8 Comprehensive Plan as amended and enacted by
9 the Council of the District of Columbia.

10 CHAIRMAN HOOD: Okay. It's been
11 moved.

12 Can I get a second?

13 COMMISSIONER TURNBULL: Second.

14 CHAIRMAN HOOD: It's been moved
15 and properly seconded.

16 Any further discussion?

17 The only thing I would add, I just
18 would commend the Office of Planning, Mr.
19 Moore, and also the community for getting this
20 done.

21 Okay. Any further discussion?

22 All those in favor?

1 (AYES)

2 CHAIRMAN HOOD: Ms. Schellin can
3 you record the vote?

4 SECRETARY SCHELLIN: Yes.

5 Staff records the vote to five to
6 zero to zero to approved Zoning Commission
7 Case No. 07-30 for proposed action.

8 That would be Commissioner
9 Jeffries moving, Commissioner Turnbull
10 seconding, Commissioners Hood, Etherly and May
11 in support.

12 CHAIRMAN HOOD: Ms. Schellin, do
13 we have anything else before us?

14 SECRETARY SCHELLIN: No, sir.

15 CHAIRMAN HOOD: Okay. If that's
16 the case, this hearing is adjourned.

17 Thank you.

18 (Whereupon, the above matter was
19 concluded at 6:55 p.m.)

20

21

22

