

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

Zoning Map Amendment at
Square 442, Lots 864
and 865

Case No.
01-29MA

Thursday,
July 25, 2002

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

The Public Hearing of Case No. 01-29MA by the District of Columbia Zoning Commission convened at 4:00 p.m. in the Office of Zoning Hearing Room at 441 4th Street, Northwest, Washington, D.C., Carol J. Mitten, Chairperson, presiding.

PRESENT:

CAROL J. MITTEN, Chairperson

ANTHONY J. HOOD, Vice Chairperson

JAMES HANNAHAM, Commissioner

HERBERT M. FRANKLIN, Commissioner (outgoing)

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PRESENT - (Continued):

COMMISSION STAFF:

ALBERTO BASTIDA

SHARON SANCHEZ

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

4:00 p.m.

CHAIRPERSON MITTEN: Good evening, ladies and gentlemen. This is a public hearing of the Zoning Commission of the District of Columbia for Thursday, July 25, 2002. My name is Carol Mitten, and joining me this evening are Vice Chairman Anthony Hood and Commissioner James Hannaham.

The subject of this evening's hearing is Zoning Commission Case No. 01-29MA. This is a request by the United House of Prayer for an Amendment to the Zoning Maps to change the zoning of Lots 864 and 865 in Square 442 from R4 to C2B within the Arts Overlay District.

Notice of today's hearing was published in the D.C. Register on May 17, 2002 and in The Washington Times on June 6, 2002. This hearing will be conducted in accordance with the provisions of 11 DCMR, Section 3022, which are the procedures for contested cases.

Copies of today's hearing agenda are available to you and are located at the table near the door. The order of procedure will be as follows: preliminary matters, followed by the applicant's case, report of the Office of Planning, reports of other agencies, report of the Advisory Neighborhood Commission,

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1 in this case it is 2C, parties and persons in support,
2 parties and persons in opposition, and rebuttal by the
3 applicant.

4 The following time constraints will be
5 maintained in this hearing. The applicant will have 30
6 minutes to make their presentation, parties will have
7 15 minutes, organizations will have five minutes, and
8 individuals will have three minutes. The Commission
9 intends to maintain these time limits as strictly as
10 possible in order to hear the case in a reasonable period
11 of time. The Commission reserves the right to change
12 the time limits for presentations if necessary and notes
13 that no time shall be ceded.

14 All persons appearing before the Commission
15 are to fill out two witness cards. These cards are
16 located on the table near the door again. Upon coming
17 forward to speak to the Commission, please give both cards
18 to the Reporter, who is sitting to our right.

19 The decision of the Commission in this case
20 must be based exclusively on the public record. To avoid
21 any appearance to the contrary, the Commission requests
22 that persons present not engage members of the Commission
23 in conversation during a recess or at any other time.
24 Staff will be available throughout the hearing to answer
25 any procedural questions, and you can direct those to

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1 Mr. Bastida or Ms. Sanchez.

2 Please turn off all beepers and cell phones
3 at this time so as not to disrupt these proceedings.

4 At this time, the Commission will consider
5 any preliminary matters.

6 Mr. Bastida, do you have any preliminary
7 matters?

8 MR. BASTIDA: Yes, Madam Chairman.

9 The applicant, unfortunately, as an
10 oversight forgot to post the property. The staff has
11 made some research and has determined that the applicant
12 met at least four times with ANC, and the ANC advertised
13 the meetings widely through the community, and the ANC
14 unanimously approved the application.

15 In addition, the applicant has had
16 conversations with community residents. Unfortunately,
17 he couldn't recall the exact names and times, and has
18 worked with the adjacent neighbors and they have no
19 objection to the proposal.

20 Accordingly, the staff believes, with the
21 advertisement that the office does, the Office of Zoning
22 does, that the community is well aware of these
23 proceedings and believes that you can waive your
24 requirements regarding the posting of the property. The
25 property was not posted until July the 9th.

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1 CHAIRPERSON MITTEN: All right.

2 Is there any objection from the Commission
3 to waiving the rule regarding posting of the property
4 in this case?

5 (Nays.)

6 CHAIRPERSON MITTEN: All right then, without
7 objection we will waive the posting requirement in this
8 case.

9 MR. BASTIDA: Thank you, Madam Chairman.

10 CHAIRPERSON MITTEN: Are there any other
11 preliminary matters?

12 MR. BASTIDA: No, the staff has no other
13 preliminary matters. Thank you, Madam Chairman.

14 CHAIRPERSON MITTEN: Thank you.

15 Would all individuals wishing to testify this
16 evening please now rise to take the oath.

17 Ms. Sanchez?

18 (Whereupon, the witnesses were sworn.)

19 CHAIRPERSON MITTEN: I believe we are ready
20 for the applicant's case. You need to turn that on, you
21 just push that button.

22 MS. JACKSON: Okay.

23 CHAIRPERSON MITTEN: Very good.

24 MS. JACKSON: Good evening, Madam Chair and
25 members of the Commission, my name is Lisa Jackson of

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1 the law firm of Holland & Knight. Here with me to my
2 right, also with the law firm of Holland & Knight, is
3 Norman Glasgow, Jr., and representing the applicant we
4 have Apostle Sterling Green, Director of Special Projects
5 for the United House of Prayer for All People, and Suzanne
6 Reatig, from Suzanne Reatig Architecture.

7 We are here representing the applicant, the
8 United House of Prayer, and its request for a Map Amendment
9 for the property at 626 S Street, N.W., Square 442, Lots
10 864 and 865, from the R4 District to the C2B Uptown Arts
11 Mixed Use Overlay District.

12 We are willing to go into as much detail as
13 you would like. We also are willing to stand on the
14 record, but we will proceed as you direct.

15 CHAIRPERSON MITTEN: Thank you.

16 I think it's pretty straightforward, and I
17 know that my colleagues have had an opportunity to review
18 the record, so let's just see if they have any questions
19 and we can sort of cut through this.

20 MS. JACKSON: Okay, we'd be happy to answer
21 them.

22 CHAIRPERSON MITTEN: Thank you.

23 Are there any questions for the applicant?

24 VICE CHAIRPERSON HOOD: I have none, Madam
25 Chair.

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1 CHAIRPERSON MITTEN: Any questions

2 MR. HANNAHAM: None.

3 CHAIRPERSON MITTEN: All right.

4 You are so well prepared, and given that I
5 had been in the BZA case and Apostle Green and I have
6 spent time together in the BZA, you know, this really
7 is most appropriately a rezoning, so we are happy that
8 you are here and I think it will be a pretty
9 straightforward evening for us.

10 MR. GREEN: Madam Chair, could I make one
11 comment?

12 CHAIRPERSON MITTEN: Absolutely.

13 MR. GREEN: If I may, my name is Apostle Green,
14 Director of Special Projects for Mission Matters with
15 the United House of Prayer, and I just want to thank you
16 for allowing us to come back before you and your direction.

17 We are pleased to be here, and thank you for your support
18 and guidance in how we can go forward and build a beautiful
19 development on that spot of ground. Thank you for your
20 help.

21 CHAIRPERSON MITTEN: Thank you. It's always
22 a pleasure to have you come down.

23 All right, then let's move to the Report by
24 the Office of Planning.

25 MS. BRAUN-ROBERTS: Good evening, Madam

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1 Chairman and members of the Commission, I am Maxine
2 Braun-Roberts, representing the Office of Planning.

3 Again, we are all familiar with the case,
4 however, I just want to state that the application is
5 in conformance with the Generalized Land Use Map, which
6 recommends a mixture of moderate density residential,
7 which allows row houses and garden apartments, and
8 moderate density commercial uses, which allows shopping
9 and services as one separate property. The proposed
10 rezoning to the AC2B District is consistent with these
11 recommendations.

12 The proposal will fulfill recommendations
13 by providing housing in this area, and housing that will
14 serve a very under-served portion of the District's
15 population. In the event the property is not developed
16 as residential and permitted scale of intensity of
17 commercial uses are also compatible with the
18 neighborhood.

19 The applicant has demonstrated that the
20 proposed rezoning and development will provide housing
21 and revitalize this area, and the proposed development
22 will be compatible with existing developments.

23 The Office of Planning, therefore,
24 recommends approval of this application.

25 Thank you, Madam Chairman.

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1 CHAIRPERSON MITTEN: Thank you.

2 Any questions for Ms. Braun-Roberts?

3 VICE CHAIRPERSON HOOD: I just have one quick
4 one for Ms. Braun-Roberts.

5 On the -- in your report, on the schematic
6 picture, the aerial photograph you gave us, it seems as
7 though Lot 108 is left out of the area. That's also
8 included in the rezoning too, I believe, am I correct?

9 I guess I just want to know, from what I'm looking at
10 I see 108 is left out of the green area, unless you were
11 just trying to depict the site.

12 MS. BRAUN-ROBERTS: The lots that are for the
13 rezoning is Lots 864 and 865.

14 VICE CHAIRPERSON HOOD: Oh, okay, where did
15 I get 108 from?

16 Okay. Well, my next question is, we are
17 looking at the C2B Arts Area, to the right, if I'm looking
18 at the photograph, and my orientation may be a little
19 off, I guess S Street is running north -- no, east and
20 west, okay, if south of S Street, that area to the right
21 of what you have depicted here as the site, was that area
22 under consideration also, too, as being part of the
23 rezoning to C2B?

24 MS. BRAUN-ROBERTS: The only area that's under
25 consideration tonight is the area outlined in green.

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1 VICE CHAIRPERSON HOOD: But, I mean, in
2 deliberations and discussions, would that be something
3 viable?

4 MS. BRAUN-ROBERTS: You are asking if we
5 considered --

6 VICE CHAIRPERSON HOOD: Right, was that
7 considered?

8 MS. BRAUN-ROBERTS: -- yes, we did look at
9 the fact, but we thought that those properties are
10 developed appropriately and we didn't see any reason why
11 we should include them.

12 VICE CHAIRPERSON HOOD: At this time.

13 MS. BRAUN-ROBERTS: At this time.

14 VICE CHAIRPERSON HOOD: Okay. I guess I was
15 trying to save us a hearing, Madam Chair, to see if we
16 could include that.

17 Thank you.

18 MS. BRAUN-ROBERTS: Your welcome.

19 CHAIRPERSON MITTEN: Thank you.

20 Any other questions for the Office of
21 Planning?

22 All right. Did you have any questions for
23 the Office of Planning? Ms. Jackson, any questions for
24 the Office of Planning?

25 MS. JACKSON: No, no, thank you.

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1 CHAIRPERSON MITTEN: All right.

2 I don't see anyone here representing any of
3 the other government agencies. I would just acknowledge
4 the fact that we have received a letter from Jack Evans,
5 who is the Council Member for Ward 2, in support of the
6 rezoning.

7 Is there anyone here representing ANC 2C?
8 Would you like to come forward at this time?

9 MR. PADRO: Good evening, Madam Chair and
10 members of the board. I'm Alexander M. Padro, Advisory
11 Neighborhood Commissioner for single-member District
12 2C01 and Shaw, where the subject property is located.

13 I'm not here to present the ANC report, which
14 you should already have on file, however, I do have some
15 additional comments and community perspectives that I
16 would like to present. I have a letter which I would
17 like to submit to you and read from into the record.

18 CHAIRPERSON MITTEN: Please do. You need to
19 give it to staff and then they'll pass it out.

20 MR. PADRO: Regarding the case before you,
21 the building at 626 S Street, N.W., Square 442, Lots 864
22 and 865, is an early 20th Century 12-unit apartment house.

23 Since it does not meet Code it has been vacant and boarded
24 up for a considerable time, a blight to the community,
25 because of the restrictions on the site imposed by the

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1 current zoning the owner, United House of Prayer, has
2 been unable to redevelop the site.

3 In 2001, the Board of Zoning adjusted and
4 rejected the owner's application for a variance under
5 11 DCMR, Subsections 3103.2, for a use variance to build
6 a new apartment building under Subsection 33.5, not
7 meeting Subsection 403's lot occupancy requirements, and
8 relief from the parking requirements in an R4 District.

9 In the Ward 2 portions of the Comprehensive
10 Plan, neighborhood stabilization, the creation of
11 additional housing, especially housing near Metro
12 stations, are emphasized.

13 Approving the request of a Zoning Map
14 Amendment would support these Comprehensive Plan
15 provisions, since it will allow the applicant to replace
16 a vacant, unusable structure, which is not in the Historic
17 District, with housing directly across the street from
18 a Metro station.

19 While the applicant certainly could
20 construct two townhouses on the lots in question under
21 the current zoning, they instead proposed constructing
22 much needed affordable housing, which can serve to help
23 stem displacement from renter families -- of renter
24 families, from nearby single-family homes which are being
25 sold by their owners to capitalize on the dramatic

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1 increase in property assessment being experienced in
2 Shaw.

3 In order to allow the applicant to use this
4 property to provide housing for far more families than
5 would be possible in a matter of right development, the
6 requested zoning change would be necessary.

7 The applicant's agreement to include retail
8 space on the first floor of the proposed building will
9 also support the community's desire for additional
10 neighborhood-serving retail, as expressed in the
11 Strategic Neighborhood Action Plan for Ward 2, Cluster
12 7, which includes the subject location.

13 In order to gauge community sentiments for
14 the zoning change, I personally contacted over two dozen
15 residents of the 600 block of S Street, N.W., as well
16 as the 1700 and 1800 blocks of 6th Street, N.W., and the
17 1800 block of Willburger Street, N.W., in March of this
18 year, to determine if there was objection to the proposed
19 change and whether there were any conditions that could
20 be addressed in the Zoning Commission's decision to
21 assuage specific concerns raised.

22 I determined that there were no objections
23 raised to the proposed change in zoning per se, but there
24 were associated traffic congestion and parking concerns.

25 S Street, N.W., between 7th Street and New

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1 Jersey Avenue, N.W., is a two-way east-way thoroughfare,
2 frequently used by rush-hour commuters as a shortcut.
3 The 600 block of S Street, N.W., is narrower than the
4 400 and 500 blocks, the 600 block does not have rush-hour
5 parking restrictions imposed. The block is also the
6 location of an entrance to the Shaw Howard Metro -- excuse
7 me, Shaw Howard University Green Line Metro Station.
8 As a result, the parking lanes in the 600 block of S Street
9 are generally fully occupied before, during and after
10 business hours on weekdays. Commuters, residents, and
11 customers of nearby business establishments compete for
12 the limited number of parking spaces on these streets.

13 As mentioned previously, the street is a
14 narrow one. When cars double park, even momentarily,
15 the street becomes an obstacle course. Cars frequently
16 travel at high rates of speed through the block in order
17 to cross either 6th or 7th Street while the light is green
18 or yellow. Increasing the number of vehicles that would
19 be looking for parking in the area would increase traffic
20 congestion and endanger pedestrians, including students
21 of the Child Development Center at 614 S Street, N.W.

22 Concerns were also expressed by neighbors
23 that an additional 16 apartments units on the block could
24 potentially exacerbate an already tight parking situation
25 along the 600 block of S Street, N.W. Since the creation

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1 of housing adjacent to the Metro stations is one of the
2 Comprehensive Plan provisions which support the
3 applicant's case, it was suggested that a provision be
4 included in the applicant's rental agreements with
5 tenants prohibiting the ownership of motor vehicles.
6 Just as housing management companies can restrict whether
7 or not tenants can own pets, a requirement that tenants
8 in this building not own automobiles is certainly within
9 the management's discretion and ability to enforce.

10 Therefore, as the single-member district
11 commissioner responsible for this location, I endorse
12 the applicant's request for a Zoning Map Amendment, and
13 request that the final Zoning Commission order include
14 the requirement relating to ground floor retail space
15 agreed to by the applicant, and a requirement that tenants
16 in the building be prohibited from owning motor vehicles.

17 These provisions should be included in the decision
18 rather than the findings of fact, to ensure that there's
19 no doubt that these conditions -- these are conditions
20 of the approval of the applicant's request and not really
21 findings of fact.

22 CHAIRPERSON MITTEN: Thank you.

23 MR. PADRO: I'd be happy to answer any
24 questions you might have for me.

25 CHAIRPERSON MITTEN: All right.

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1 Any questions from the Commission?

2 Any questions? Certainly.

3 COMMISSIONER HANNAHAM: I don't remember
4 seeing a report from the Department of Transportation.

5 CHAIRPERSON MITTEN: Oh, we don't have one.

6 COMMISSIONER HANNAHAM: Is that part of the
7 record?

8 CHAIRPERSON MITTEN: We do not have one.

9 COMMISSIONER HANNAHAM: We don't have one,
10 okay.

11 Is that still something that's practical that
12 we can still acquire, something in the way of an assessment
13 from the Department of Transportation?

14 CHAIRPERSON MITTEN: Let me just ask, was
15 there a referral made to --

16 MS. BRAUN-ROBERTS: A referral was made to
17 the Office of Transportation. I did speak to them
18 personally about it, and when I spoke to Abdullah he said
19 that he did not have any concerns. I specifically asked
20 him about the parking, and he said that he thinks that
21 the parking that was being provided by the applicant was
22 sufficient.

23 COMMISSIONER HANNAHAM: I'm just mulling it
24 over.

25 CHAIRPERSON MITTEN: Okay.

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1 Any other questions?

2 Ms. Jackson, did you have any questions for
3 Mr. Padro?

4 MS. JACKSON: No, thank you.

5 CHAIRPERSON MITTEN: All right, thank you.

6 MR. PADRO: Thank you.

7 CHAIRPERSON MITTEN: Is there anyone else who
8 would like to testify, either in support or opposition
9 this evening on this case?

10 Any closing thoughts, Ms. Jackson?

11 MS. JACKSON: Thank you, Madam Chair.

12 Just to respond to the comments made by
13 Commissioner Padro, our proposed development plan will
14 provide the required number of parking spaces under the
15 zoning regulations, so we think that that will be -- in
16 addition to the close proximity to the Metro Station,
17 will minimize any adverse impacts on traffic and parking.

18 And, I'd also just like to conclude by
19 thanking the Commission for considering this application,
20 and we think it's pretty clear-cut, and we would ask that
21 the Commission consider issuing a bench decision this
22 evening.

23 CHAIRPERSON MITTEN: All right, thank you.

24 MR. GLASGOW: If I may, I'd just like to just
25 add one item here.

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1 CHAIRPERSON MITTEN: Certainly.

2 MR. GLASGOW: And, that is -- yes, sir, thank
3 you -- my name is Norman Glasgow, Jr., of the law firm
4 of Holland & Knight.

5 Obviously, having a prohibition,
6 particularly in a rezoning application, this is not a
7 PUD, I think would be more than highly unusual and may
8 severely limit the marketability of the units.

9 We are providing parking, we are meeting the
10 requirements of the regulations, and I think that that
11 should be sufficient, along with the referral and the
12 discussion that the Office of Planning had with the
13 Department of Public Works.

14 CHAIRPERSON MITTEN: Thank you.

15 I think the request for a bench decision is
16 certainly appropriate in this case, given that it's
17 straightforward and we have certainly an adequate record
18 before us. I guess I'll begin by just asking if there's
19 any thoughts that the Commissioners would like to share.

20 Are you reading to go forward with a decision?

21 VICE CHAIRPERSON HOOD: Madam Chair, in that
22 case, unless there are any concerns, I move approval of
23 Application No. 01-29MA, rezoning of Square 442, Lots
24 864 and 865, from R4 District to C2B District with the
25 Uptown Arts Mixed Use Overlay.

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1 COMMISSIONER HANNAHAM: I would second it.

2 CHAIRPERSON MITTEN: All right.

3 Any further discussion? Any discussion?

4 While I think we all appreciate the
5 comprehensive research that Mr. Padro did, it would be
6 very unusual to condition a Map Amendment, it's not
7 project specific, but I think that we'll make sure that
8 the Office of Planning gets a copy of your statement so
9 that in their more comprehensive review of the area they
10 can take those concerns into consideration.

11 So, is there any further discussion?

12 All right, all those in favor please say aye?

13 (Ayes.)

14 CHAIRPERSON MITTEN: Those opposed please say
15 no.

16 Ms. Sanchez?

17 MS. SANCHEZ: Yes, the staff would record the
18 vote three, to zero, to two, Commissioner Hood moving,
19 Commission Hannaham seconding, Commissioner Mitten in
20 favor, Commissioners May and Parsons not present, not
21 voting.

22 CHAIRPERSON MITTEN: All right.

23 So, this is a preliminary proposed action,
24 right, Mr. Bastida?

25 MR. BASTIDA: Yes. The staff would

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1 anticipate the final action will take place in September,
2 because I would refer to NCPC, they will handle it in
3 their September meeting, which is prior to your September
4 meeting.

5 CHAIRPERSON MITTEN: Okay, so we'd anticipate
6 taking final action in September then.

7 Thank you very much, and I now declare this
8 public hearing adjourned.

9 (Whereupon, the above-entitled matter was
10 concluded at 6:53 p.m.)

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