

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

PUBLIC HEARING

+ + + + +

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IN THE MATTER OF: :
  
:
  
NATIONAL RESTAURANT ASSOCIATION -: Case No.
  
: 10-17
  
MAP AMENDMENT @ SQUARE 160 :
  
:
  
:
  
-----:

Thursday,
  
October 28, 2010

Hearing Room 220 South
  
441 4<sup>th</sup> Street, N.W.
  
Washington, D.C.

The Public Hearing of Case No.
10-17 by the District of Columbia Zoning
Commission convened at 6:30 p.m. in the
Office of Zoning Hearing Room at 441 4<sup>th</sup>
Street, N.W., Washington, D.C., 20001,
Anthony J. Hood, Chairman, presiding.

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Board of Zoning Adjustment
District of Columbia
CASE NO. Transcript
EXHIBIT NO. null

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson  
KONDRAD SCHLATER, Vice Chairperson  
GREG SELFRIDGE, Commissioner  
MICHAEL G. TURNBULL, FAIA, Commissioner  
(AOC)

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

ARLOVA JACKSON  
JOEL LAWSON

The transcript constitutes the minutes from the Public Hearing held on October 28, 2010.

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T-A-B-L-E O-F C-O-N-T-E-N-T-S

INTRODUCTION:

Chairman Anthony J. Hood ..... 4

APPLICANT'S CASE:

DCZC Case No. 10-17, Carolyn Brown ..... 6

Steven E. Sher, Witness ..... 8

OFFICE OF PLANNING REPORT:

Arlova Jackson ..... 20

REPORTS OF OTHER GOVERNMENT AGENCIES:

None ..... 21

REPORTS FROM ANCs:

None ..... 21

ORGANIZATIONS AND PERSONS IN SUPPORT:

None ..... 22

ORGANIZATIONS AND PERSONS IN OPPOSITION:

None ..... 22

CLOSING REMARKS BY APPLICANT:

Carolyn Brown ..... 22

VOTE:

Sharon Schellin ..... 23

CLOSING:

Chairman Anthony J. Hood ..... 24

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

2 6:35 p.m.

3 CHAIRMAN HOOD: Okay. Good  
4 evening, ladies and gentlemen. This is the  
5 Public Hearing of the Zoning Commission for  
6 the District of Columbia for Thursday, October  
7 28, 2010. My name is Anthony Hood. Joining  
8 me are Vice Chairman Schlater, Commissioner  
9 Selfridge, and Commissioner Turnbull. We are  
10 also joined by the Office of Zoning Staff, Ms.  
11 Sharon Schellin. Also, the Office of Planning  
12 Staff, Mr. Lawson and Ms. Jackson.

13 This proceeding is being recorded  
14 by a court reporter. It is also webcast live.

15 Accordingly, we must ask you to refrain from  
16 any disruptive noises or actions in the  
17 hearing room.

18 The subject of this evening's  
19 hearing is Zoning Commission Case Number  
20 10-17. This is a request by the National  
21 Restaurant Association for approval of a Map  
22 Amendment for property located at Square 160.

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1 Notice of today's hearing was published in  
2 the D.C. Register on August 27, 2010. And  
3 copies of that announcement are available to  
4 my left on the wall near the door.

5 The hearing will be conducted in  
6 accordance with provisions of 11 DCMR 32-22,  
7 as follows: preliminary matters, Applicant's  
8 case, report of the Office of Planning, report  
9 of other Government agencies, report of the  
10 ANC -- in this case ANC-2B, organizations and  
11 persons in support, organizations and persons  
12 in opposition, rebuttal and closing by the  
13 Applicant. The following time constraints  
14 will be maintained in this meeting: the  
15 Applicant, 10 minutes, organizations five  
16 minutes, individuals three minutes. Well, if  
17 they need 15 minutes, they can take it. The  
18 Commission intends to adhere to the time  
19 limits as strictly as possible, in order to  
20 hear the case in a reasonable period of time.

21 The Commission reserves the right to change  
22 the time limits for presentations, if

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1 necessary, and notes that no time shall be  
2 ceded. All persons appearing before the  
3 Commission are to fill out two witness cards.

4 Please turn off all beepers and  
5 cell phones at this time, so as not to disrupt  
6 these proceedings. Will all individuals  
7 wishing to testify please rise and take the  
8 oath?

9 MS. SCHELLIN: Please raise your  
10 right hand. Do you solemnly swear or affirm  
11 the testimony you will give this evening will  
12 be the truth, the whole truth, and nothing but  
13 the truth?

14 MR. SHER: I do.

15 MS. SCHELLIN: Thank you.

16 CHAIRMAN HOOD: Okay. Let me just  
17 get a feel for what we have going on in the  
18 audience. Is there anyone here in opposition  
19 of this? Okay. All right, Ms. Brown, you may  
20 begin.

21 MS. BROWN: Good evening, Chairman  
22 Hood and members of the Commission. I am

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1 Carolyn Brown with the law firm of Holland &  
2 Knight. I am here with Chip Glasgow of our  
3 office. To my right is Steven Sher, our  
4 expert land use and Zoning planner. And also  
5 here with us tonight is David Gilbert, the  
6 Chief Operating Officer of the National  
7 Restaurant Association. We're very pleased to  
8 be here this evening to present our case on  
9 the Map Amendment from DCSP-2 to DCC-4 for the  
10 property at 1200 17th Street, NW.

11 As the materials that we have  
12 submitted to the record thus far have shown,  
13 this Map Amendment is not inconsistent with  
14 the Comprehensive Plan. We're very pleased to  
15 have the support of the Advisory Neighborhood  
16 Commission 2B in Dupont Circle, and we have  
17 reviewed the Office of Planning report and are  
18 in full support of their recommendation to  
19 approve this Map Amendment application. Given  
20 this support, we propose to be very brief,  
21 this evening, and present only one witness,  
22 Mr. Sher. And Mr. Gilbert is available for

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1 questions. So, if there are no preliminary  
2 questions or issues, we can proceed directly  
3 to Mr. Sher's testimony.

4 CHAIRMAN HOOD: Ms. Brown, are you  
5 still offering Mr. Sher as an expert witness?

6 MS. BROWN: Yes.

7 CHAIRMAN HOOD: Okay. I think we  
8 don't have any problems, so just go ahead.

9 MS. BROWN: Thank you. Mr. Sher?

10 MR. SHER: Mr. Chairman, members of  
11 the Commission, for the record, my name is  
12 Steven E. Sher, the Director of Zoning and  
13 Land Use Services with the law firm of Holland  
14 & Knight. As Ms. Brown has stated, what we  
15 are here for is a Map Amendment from DCSP-2,  
16 the DC being the Dupont Circle Overlay, to  
17 DCC-4. Properties located on the west side of  
18 17th Street, between M Street and Rhode Island  
19 Avenue NW, contains about 17,000 square feet  
20 of land area. It's improved with an eight  
21 story building, built in the mid-1960s, owned  
22 by the National Restaurant Association,

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1 occupied by the Association, by the U.S.  
2 Institute of Peace, and by other office  
3 tenants. The streets that abut the property  
4 are 17, M, and Rhode Island Avenue. Those are  
5 relatively wide streets. 17th Street is 110  
6 feet wide. Rhode Island Avenue is 130 feet  
7 wide. This is a triangular shaped square,  
8 abounded by Rhode Island, 17, and M. The  
9 remainder of the subject square is improved  
10 with three office buildings. Two of them are  
11 at 130 feet, and one is an older building that  
12 is only three stories tall.

13 Immediately following page two of  
14 the outline you have before you, is an aerial  
15 photograph of the square and the immediate  
16 vicinity. And then, beyond that are three  
17 pages of photographs looking down the streets  
18 surrounding the subject property, giving you a  
19 visual indication of the character of what's  
20 out there. Just for reference, on the aerial  
21 photograph, the subject building is the  
22 rectangular one more or less in the center of

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1 the photograph.

2 The existing SP-2 zoning allows a  
3 maximum height of 90 feet and a maximum FAR of  
4 6.0. At the time this building was built, the  
5 non-residential FAR was allowed to be 5.5.  
6 Today, it's only allowed to be 3.5. That was  
7 changed in 1978. What we're seeking is C-4  
8 zoning. That would allow, because of the  
9 widths of the surrounding streets, 130 feet  
10 and 10 FAR. So, in effect, we're going to  
11 pick up 40 feet in height and 4.0 FAR. The  
12 subject site has been zoned SP -- was zoned SP  
13 in 1958. The building was approved as a  
14 special exception by the BZA in 1964. The SP  
15 zone was redesignated as SP-2 in 1978. And  
16 the DC Overlay was added in January of 1992.  
17 The remainder of the square, which also  
18 started out as SP in 1958, was rezoned in 1964  
19 to C-4. So everything to the west of this,  
20 and there's that little alley that separates  
21 this building from the others, everything west  
22 of the alley is zoned C-4 already.

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1           There is a Map following page 6 in  
2 the report, which shows the zoning pattern in  
3 the area. As you can see, there is C-4 on  
4 many sites surrounding this building. There  
5 are three PUDs that have been approved in the  
6 vicinity, the Sumner School property across  
7 17th Street to the east is zoned C-4 under the  
8 PUD. The Grammercy site, which is in the 1600  
9 block of Rhode Island Avenue is also zoned  
10 C-4, pursuant to that PUD. And the property  
11 on the north side of the 1700 block of Rhode  
12 Island Avenue is zoned C-3-C, pursuant to that  
13 PUD. So notwithstanding that the zoning map  
14 shows what appears to be other categories,  
15 there are, in fact more high density  
16 commercial properties zoned in that immediate  
17 vicinity.

18           As the C-4 District allows, what we  
19 would propose to do, what the Association  
20 proposed to do, is to demolish the existing  
21 building and build a new building that would  
22 max out what the C-4 zone allows, which would

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1 be 130 foot, 10 FAR building, or something in  
2 that vicinity. What are the standards that  
3 the Commission is required to apply in looking  
4 at a Map Amendment case? First and foremost  
5 among them, Zoning shall be not inconsistent  
6 with the Comprehensive Plan. Beyond that,  
7 there are certain standards in the Zoning  
8 Enabling Act which are set forth on page six  
9 of the outline, in items 8, B, C, and D, and  
10 I'll come back to those a little bit later.

11 There are a number of important  
12 provisions in the Comprehensive Plan that  
13 support what this Map Amendment is all about.

14 And let me just point to a couple of them in  
15 paragraph 2-19.2. "An economically strong and  
16 viable District of Columbia is essential to  
17 the economic health and well being of the  
18 region. Thus, a broad spectrum of private and  
19 public growth should be encouraged. The  
20 economic development strategies must  
21 capitalize of the city's location at the  
22 center of the region's transportation and

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1 communications system." This property is in  
2 the Central Washington sub-area of the Plan.  
3 It's also within the Central Employment Area  
4 Designation. The Central Employment Area is  
5 the business and retail heart of the District,  
6 and the metropolitan area. On the future land  
7 use map, which is an -- an excerpt of which  
8 follows page eight, the subject property is  
9 designated for high density commercial. As  
10 you can see, that entire triangle, bounded by  
11 M, Rhode Island, and 17th, is in that red  
12 color meaning high density commercial. The  
13 Comp Plan specifically states this designation  
14 is used to define the central employment  
15 district of the city and other major office  
16 employment centers on the downtown perimeter.

17 It's characterized by office and mixed office  
18 retail buildings greater than eight stories in  
19 height, although lower scale buildings are  
20 interspersed.

21 If you look at the policies of --  
22 regarding the Central Employment Area, the

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1 Plan provides that the CEA shall include the  
2 greatest concentration of the city's private  
3 office development. There are other policies  
4 regarding office growth, office buildings, in-  
5 fill and renovation, and they're outlined on  
6 page ten. Within the Central Washington area  
7 element, Policy CW-1.1.2, provides that  
8 Central Washington should be retained as the  
9 premier office location in the Greater  
10 Washington region. And in the policy focus  
11 area section, the Golden Triangle, Franklin  
12 Square area should be sustained as a prestige  
13 employment center, strongly supporting  
14 reinvestment in its office buildings to meet  
15 market demand.

16 With respect to the other standards  
17 applicable to the change of zoning,  
18 preservation of public health, safety, and  
19 general welfare, the Use, height, and bulk of  
20 permitted development under C-4 would be  
21 consistent with permitted use, height, and  
22 bulk on adjacent properties and many

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1 surrounding properties to this site. With  
2 respect to adverse consequences, this property  
3 is in a central area with substantial built  
4 space. The addition of approximately 76,000  
5 square feet of office space more than what's  
6 there on the site today will be a minor  
7 increase in overall density in the area. That  
8 additional square footage, however, adds to  
9 employment opportunities and tax base, makes  
10 use of existing public infrastructure. Metro  
11 stations at Dupont Circle and Farragut North  
12 are within easy walking distance of the site.

13 Bus lines on Connecticut Avenue and assorted  
14 infrastructure situations make this an ideal  
15 site for additional office development.  
16 Creation of favorable conditions: the  
17 proposed zoning allows for the same use,  
18 height, and build as is currently allowed on  
19 the other properties in the square. and with  
20 the predominant zoning in the area. Stability  
21 of values is assured by applying zoning that  
22 is consistent with that zoning that is

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1 applicable. And, as we said before, the site  
2 is in the Central Employment Area, with  
3 excellent proximity to mass transit and  
4 appropriate for the highest density commercial  
5 office zoning.

6 So, for all those reasons, I  
7 conclude that the application for rezoning  
8 meets the test under the Zoning Act, that the  
9 change in zoning is not inconsistent with the  
10 Comprehensive Plan, that the height and bulk  
11 will not be obtrusive, nor will it cause any  
12 adverse effect on any nearby properties, and  
13 the application for rezoning should be  
14 approved. Thank you, very much.

15 MS. BROWN: Thank you, Mr.  
16 Chairman. That concludes our direct  
17 testimony. We would be happy to answer any  
18 questions that you have.

19 CHAIRMAN HOOD: Okay. Thank you  
20 both, very much. Let's open it up. Any  
21 questions or comments? Commissioner Turnbull?

22 COMMISSIONER TURNBULL: Thank you,

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1 Mr. Chair. I just have one questions, which  
2 -- it's relating to the -- and you had touched  
3 upon it -- the ANC approval. But the ANC has  
4 a little codicil about it -- the park. And  
5 trying to -- let me just -- ANC-2B supports  
6 the request, subject to the park in the  
7 southwest corner not being compromised.  
8 Although your plan shows planting there, maybe  
9 you could talk about it. Has the ANC seen the  
10 plan or do they feel comfortable still with  
11 seeing it?

12 MS. BROWN: We submitted a copy of  
13 the plan to the ANC and we've not received any  
14 comment from them.

15 COMMISSIONER TURNBULL: One way or  
16 the other?

17 MS. BROWN: One way or the other.

18 COMMISSIONER TURNBULL: Okay.

19 MS. BROWN: I have been in touch  
20 with the SMD Victor Wexler, and he has not had  
21 any additional comments.

22 COMMISSIONER TURNBULL: Okay.

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1 CHAIRMAN HOOD: Vice Chairman  
2 Schlater?

3 COMMISSIONER SCHLATER: Where is  
4 the park? I don't see it on the -- if you  
5 look overhead, it looks like --

6 COMMISSIONER TURNBULL: Rhode  
7 Island and 17th, I think it's that corner.

8 COMMISSIONER SCHLATER: Oh.

9 COMMISSIONER TURNBULL: In front.

10 COMMISSIONER SCHLATER: Is it in  
11 public space? I guess that's the --

12 MS. BROWN: The majority of it is  
13 in public space. Yes.

14 COMMISSIONER SCHLATER: Okay. I  
15 guess I have one question. Why wasn't this  
16 parcel included in the C-4 when the balance of  
17 that square was rezoned to C-4?

18 MR. SHER: The best answer I can  
19 give you is they didn't ask. An application  
20 was put forward by a property owner who had a  
21 site that was proposed to be built upon, and  
22 it was considered by the Commission and it was

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1 rezoned. I didn't -- wasn't able to determine  
2 any other reason.

3 COMMISSIONER SCHLATER: Well, and  
4 you think -- I think that probably makes  
5 logical sense. If it -- if somebody just  
6 asked for it to be rezoned, that seems to be  
7 the most likely case. I have no further  
8 questions.

9 CHAIRMAN HOOD: Thank you. Mr.  
10 Sher, the building that's there now is what,  
11 90 feet?

12 MR. SHER: Yes, sir.

13 CHAIRMAN HOOD: Okay. If I'm  
14 looking at it to the -- I guess that's to the  
15 east. It's hard to believe I have an  
16 orientation -- orientation bash from the Boy  
17 Scouts. But anyway, to the east -- I'm  
18 looking at your documents that you gave us,  
19 behind Tab A. What's that -- I see one of the  
20 buildings is 90 feet. But the building that's  
21 to the south of that, what am I looking at?

22 MR. SHER: On the east side of 17th

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1 Street, between M and Rhode Island, is -- the  
2 building on the south is the Summer School,  
3 which was a historic landmark, preserved as  
4 part of that PUD. Where they built behind it,  
5 to the east of that, the building at the north  
6 -- to the north of that -- at the southeast  
7 corner of Rhode Island and 17th, is the Human  
8 Rights Campaign office building. That's a 90-  
9 foot building today. It used to be the B'nai  
10 B'rith Headquarters. But the Human Rights  
11 Campaign bought it and they are now in it.

12 CHAIRMAN HOOD: Okay. Got you.  
13 All right. Thank you. Any other questions?  
14 All right. Let me see something. Let me just  
15 -- before we go to the Office of Planning, do  
16 we have anyone here from the ANC? Okay. We  
17 have a letter. I'll do that at the  
18 appropriate time. Okay. Let's go to Ms.  
19 Jackson.

20 MS. JACKSON: Good evening. For  
21 the record, my name is Arlova Jackson with the  
22 Office of Planning. In light of the testimony

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1 provided and the information provided in our  
2 Staff report, I will simply state that the  
3 Office of Planning recommends approval of the  
4 requested Map Amendment and finds it to be not  
5 inconsistent with the Comprehensive Plan. And  
6 we would be happy to take any questions that  
7 you have.

8 CHAIRMAN HOOD: Okay. Thank you.  
9 Do we have any questions of the Office of  
10 Planning? Okay. Let's to go reports of any  
11 other Government agencies. I didn't see any.  
12 Reports of ANC-2B? A letter dated July 15,  
13 2010, states that the Commission approved the  
14 following motion by a vote of nine to zero,  
15 ANC-2B, supports the request, subject to the  
16 park on the southwest corner not being  
17 compromised. And I think Mr. Turnbull has  
18 already covered that. And that's agreement  
19 basically between the Applicant and the ANC. I  
20 don't think, in this particular type of case,  
21 I don't think we really have any jurisdiction.  
22 But the Applicant is showing good faith in

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1 working along with the community. So, so  
2 noted. Do we have any organizations or  
3 persons here in support that would like to  
4 testify? Any organizations or persons here  
5 in opposition? Okay. Ms. Brown, any closing  
6 remarks?

7 MS. BROWN: Yes. Thank you, Mr.  
8 Chairman. Based on the evidence of record and  
9 the testimony you've heard tonight, we believe  
10 we've met the test for the Map Amendment case  
11 and we would ask for your approval. And, if  
12 you're so inclined, we would love to have a  
13 bench decision this evening. Thank you.

14 CHAIRMAN HOOD: Okay. Thank you,  
15 very much, Ms. Brown. Commissioners, we have  
16 a request before us. I think the record is  
17 complete in this case. I would recommend that  
18 we go ahead and deal with this tonight. Any  
19 comments? Any objections? So I would move  
20 approval of the application from the National  
21 Restaurant Association to rezone Lot 809 in  
22 Square 160 from Residential DCSP-2, to

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1 Commercial DCC-4 zoning. The property is  
2 located at 1200 17th Street, NW. And I ask  
3 for a second.

4 COMMISSIONER SCHLATER: Second.

5 CHAIRMAN HOOD: It's moved and  
6 properly seconded. Any further discussion?  
7 Are you ready for the question? All those in  
8 favor, aye?

9 ALL: Aye.

10 CHAIRMAN HOOD: Not hearing any  
11 opposition, Ms. Schellin, would you please  
12 record the vote?

13 MS. SCHELLIN: Yes. Staff records  
14 the vote four to zero to one to approve  
15 proposed action in Zoning Commission Case  
16 Number 10-17, Commissioner Hood moving,  
17 Commissioner Schlater seconding, Commissioners  
18 Selfridge and Turnbull in support,  
19 Commissioner May not present, not voting.

20 CHAIRMAN HOOD: Okay. Ms.  
21 Schellin, do we have anything else before us?

22 MS. SCHELLIN: No, sir.

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1                   CHAIRMAN HOOD:    I want to thank  
2 everyone for their participation tonight.  And  
3 this hearing is adjourned.

4                   (Whereupon,    the    hearing    was  
5 adjourned at 6:53 p.m.)

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