

**MEMORANDUM**

TO: D.C. Zoning Commission
FROM: Jennifer Steingasser, Deputy Director Development Review & Historical Preservation
DATE: October 7, 2013
SUBJECT: ZC 13-07 Supplemental Report, map amendment petition

I. BACKGROUND

ZC case 13-07 is a map amendment petition of Mr. David Belt, to rezone property in Square 5081 from C-3-A to R-5-A. During the Zoning Commission public hearing on September 27, 2013, opposition was expressed by the contract purchaser of subject lot 52. In a letter dated September 29, 2013, and distributed during the hearing, Four Points LLC requested that the referenced property be removed from this rezoning request. The letter outlined the status of the planned 71-unit affordable housing development on the property. A representative later stated that approval of the second-stage application by the DC Department of Housing and Community Development for housing financing was expected in November of this year. Project construction would then get underway in 2014, and the developer stated that it will be a matter-of-right development.

A representative of The Menkiti Group also expressed opposition. The representative owns subject lot 804 (3938 Benning Road NE)¹ and said the former residence on the property had been renovated and leased for commercial office space (the building is currently vacant). Both parties opposed the zoning change because neither the planned housing density nor the current commercial lease space is allowable in the proposed R-5-A District. Both are allowed as a matter of right in the current C-3-A District.

In light of this new information, the Commission requested that OP submit a revised report and recommendation that takes into account all the circumstances around this case, for Zoning Commission consideration at its October 21, 2013 regularly scheduled public meeting.

II. UPDATED ASSESSMENT AND RECOMMENDATION

The preliminary OP report and recommendation were based on information from the current DC land records that all seven of the subject properties on Square 5081 (shown in attached Exhibits 1, 2 and 3) are developed with one-family detached dwellings or vacant. Discussion with the petitioner also indicated that all the owners of the subject properties were informed about this proposed downzoning and there was no opposition.

¹ According to DC public records, Aroli Group LLC is listed as the current owner of lot 804.

However, as revealed during the public hearing:

- Lot 52 is the site of a proposed multiple-dwelling building of affordable units, and the former dwelling on lot 804 has been converted for office lease space.²
- Neither the residential density proposed on lot 52 nor the office uses currently allowed on lot 804 under the existing C-3-A District would be allowed in the proposed R-5-A District as a matter of right.
- “Setting down” the R-5-A zone change also vested R-5-A District zoning on all seven lots. As a result, even if financing is approved, the referenced affordable housing project could *not* move forward on the subject property, pending final Commission action on this petition.

In light of these circumstances, the fact that the opponents control 60% of the land that would be effected, and the remaining five properties are not all contiguous, the Office of Planning withdraws its support for the proposed rezoning of Lots 11-22, 52, 804, 805 and 806 on Square 5081 from C-3-A to R-5-A, and recommends that the Zoning Commission dismiss this petition.

III. COMMUNITY COMMENTS

During the public hearing, an undated letter from Ward 7 Councilperson Yvette Alexander supporting the removal of Lot 52 from this rezoning petition was distributed to the Commission as an attachment to the Four Points LLC letter.

The following responses were received to letters dated September 28, 2013, that were mailed to listed owners of the seven subject properties in the DC land records. Regarding this rezoning proposal:

- Sylvia C. Turner expressed support for the proposed rezoning to R-5-A on behalf of her mother, Martha L. Jones, owner of lot 805 (3944 Benning Road NE) in a letter dated October 4, 2013;
- In an undated memorandum, David Belt, the Petitioner and owner of lot 806 (3940 Benning Road NE), reiterated his support for the original OP recommendation to rezone all the subject properties to R-5-A; and
- Ailue and Louise Gunter, owners of lot 22 (3939 Benning Road NE), expressed their support for the R-5-A rezoning in a letter dated October 6, 2013.

In a letter dated October 4, 2013, Evie L. Washington, Advisory Neighborhood Commission Single Member District representative for 7F01, again expressed support for changing the zoning of the subject properties to R-5-A.

Sheila M. Carson-Carr, Chair of Advisory Neighborhood Commission (ANC) 7F, reiterated her support of the original OP recommendation to rezone all subject properties to R-5-A in a message dated October 6, 2013.

² Department of Consumer and Regulatory Affairs records indicate that Certificate No. 10001744 issued on May 7, 2007 authorized office use in the former residence on lot 804.

In a letter dated October 6, 2013, Janis D. Hazel, Advisory Neighborhood Commission Single Member District representative for 7D05, expressed support for amending the subject properties on Square 5081 from C-3-A and R-5-A.

Michele A. Tingling-Clemmons, President of the Central Northeast Civic Association, expressed support for rezoning that subject properties to R-5-A in a letter dated October 6, 2013, on behalf of herself, her husband and son.

In a letter dated October 5, 2013, Dennis Chestnut, Executive Director of Groundwork Anacostia River DC, also expressed support for an R-5-A zoning amendment for the 3900 block of Benning Road NE.

All the correspondence included comments on the affordable housing development proposal for lot 52.

Attachment: Exhibit 1 - Square 5061 Vicinity
Exhibit 2 - Future Land Use Plan Designations (Highlighting Properties in Opposition)
Exhibit 3 - Policy Map Designation (Highlighting Properties in Opposition)

JS/afj
Arthur Jackson, Case Manager



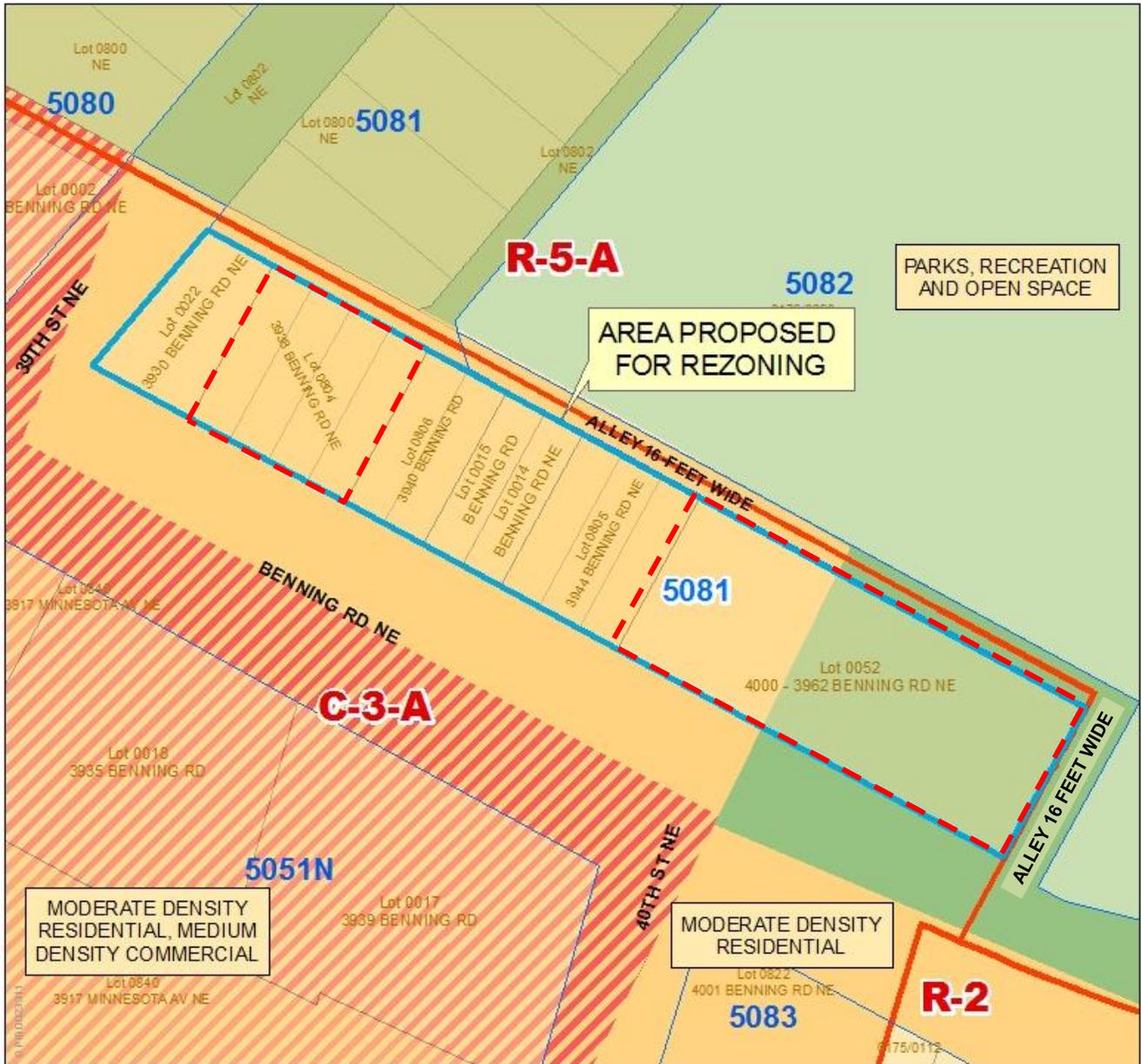
Zoning Commission Case No. 13-07
Square 5081 Vicinity



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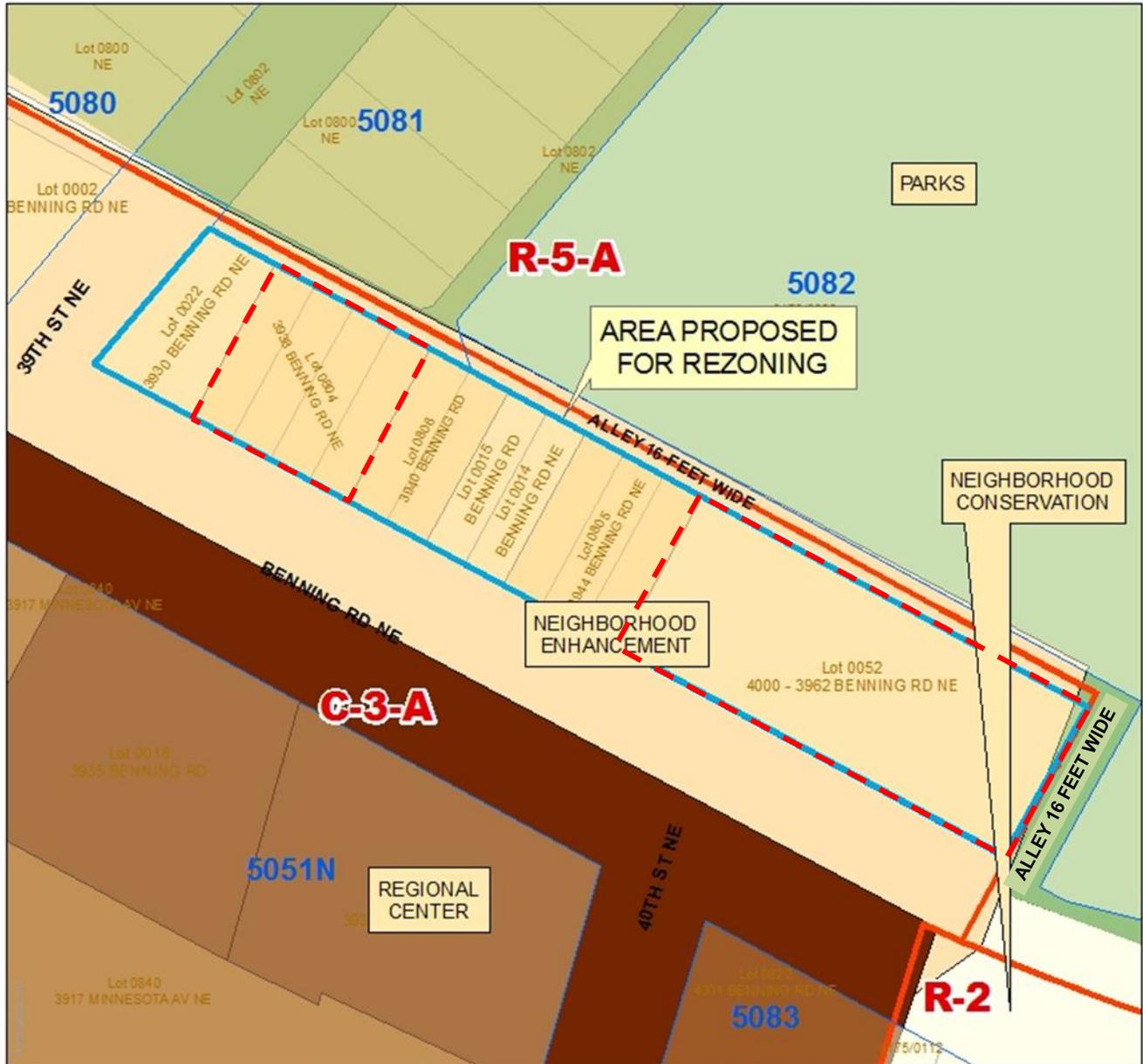
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-  Property Squares
-  Metro Stations
-  Street Centerlines
-  Water
-  Parks



**Zoning Commission Case No. 13-07
2012 Future Land Use Plan Designations**

	Subject Property	Use Code	Description	Floor Area	Land Area	Lot Width
1	5081 0014 (Benning Road NE)	191	Garage/unimproved land	N/A	2,500	25
2	5081 0015 (Benning Road NE)	191	Garage/unimproved land	N/A	2,500	25
3	5081 0022 (3930 Benning Road NE)	012	Residential-Single Family	1,842	5,285	63
4	5081 0052 (400-3962 Benning Road NE)	191	Garage/unimproved land	N/A	25,000	250
5	5081 0804 (3938 Benning Road NE)	012	Residential-Single Family	2,910	10,000	100
6	5081 0805 (3944 Benning Road NE)	012	Residential-Single Family	2,036	7,500	75
7	5081 0806 (3940 Benning Road NE)	012	Residential-Single Family	1,984	5,000	50



**Zoning Commission Case No. 13-07
2012 Policy Map Designations**



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-  Property Squares
-  Owner Points
-  Street Centerlines
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-  Parks