

DISTRICT OF COLUMBIA COURT OF APPEALS

Friends of McMillan Park and DC for Reasonable Development v. District of Columbia Zoning Commission

211 A.3d 139 (D.C. 2019) · No. 18-AA-698 and 18-AA-706 · Decided July 3, 2019

SUMMARY

The District of Columbia Court of Appeals affirmed the District of Columbia Zoning Commission's approval, on remand, of a planned unit development for the McMillan Reservoir and Filtration Complex. The court rejected challenges concerning notice, zoning of a parcel for a medical building, consistency with the Comprehensive Plan, historic preservation, open space, affordable housing, displacement, and economic feasibility. The court held that the Commission's findings were supported by substantial evidence and that its conclusions followed rationally from those findings.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	McLeese; Blackburne-Rigsby; Ruiz
JURISDICTION	District of Columbia
DECIDED	July 3, 2019
DOCKET	18-AA-698 and 18-AA-706
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petition for review of Zoning Commission order approving planned unit development
STANDARD OF REVIEW	Affirm if (1) Commission made findings of fact on each material contested issue; (2) substantial evidence supports each finding; and (3) conclusions of law follow rationally from those findings.
PRECEDENTIAL VALUE	published
PARTIES	Friends of McMillan Park, DC for Reasonable Development v. District of Columbia Zoning Commission

TOPICS

judicial review of agency action

zoning

municipal law

real estate

appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Commission violated the D.C. Administrative Procedure Act by zoning Parcel 1 to the CR Zone District without providing notice or opportunity to present evidence
2. Whether the Commission adequately balanced site-specific Comprehensive Plan policies against city-wide policies
3. Whether the Commission reasonably found the medical building necessary and beneficial
4. Whether the Commission adequately addressed affordable housing concerns
5. Whether the Commission adequately addressed potential displacement of residents due to gentrification
6. Whether the Commission reasonably concluded the medical building was economically feasible
7. Whether the Commission adequately addressed other adverse impacts including environmental concerns

HOLDINGS

1. No basis for reversal on notice grounds because petitioners failed to raise the objection before the Commission and did not identify concrete prejudice from lack of specific notice.
2. The Commission's analysis of site-specific and city-wide policies was reasonable, supported by substantial evidence, and adequately explained.
3. The Commission reasonably relied on evidence that the medical building was necessary to the economic viability of the PUD and would address healthcare infrastructure needs.
4. The Commission adequately addressed affordable housing; any error in calculating the percentage of affordable housing was harmless.
5. The Commission's analysis of displacement and gentrification was reasonable and supported by substantial evidence.
6. The Commission reasonably relied on evidence that the medical building was necessary to the economic viability of the PUD.
7. The Commission adequately evaluated environmental impacts and other potential adverse effects, reaching reasonable conclusions supported by substantial evidence.

FACTUAL BACKGROUND

Vision McMillan Partners, LLC (VMP) sought to develop a large parcel of land on the McMillan Reservoir and Filtration Complex, a historic site in D.C. The roughly 25-acre site contained historic structures from an early 1900s water filtration plant. VMP's revised planned unit development (PUD) proposed a 113-foot-tall medical building, approximately 677 housing units (including affordable housing), row houses, mixed-use buildings, and an eight-acre park. The PUD would preserve some historic resources but require demolition of most underground sand-filter beds. The Zoning Commission approved the revised PUD after additional hearings on remand.

PROCEDURAL HISTORY

The D.C. Court of Appeals previously vacated the Zoning Commission's approval of a planned unit development (PUD) for the McMillan site in *Friends of McMillan Park v. District of Columbia Zoning Comm'n* (FOMP I), 149 A.3d 1027 (D.C. 2016). On remand, the Commission held additional hearings and approved a slightly revised PUD application. Petitioners challenged the Commission's order on remand.

DISPOSITION

affirmed

CASES CITED

- *Friends of McMillan Park v. District of Columbia Zoning Comm'n* (FOMP I), 149 A.3d 1027 (D.C. 2016)
- *Howell v. District of Columbia Zoning Comm'n*, 97 A.3d 579 (D.C. 2014)
- *Citizens Ass'n v. District of Columbia Bd. of Zoning Adjustment*, 642 A.2d 125 (D.C. 1994)
- *Wisconsin-Newark Neighborhood Coal. v. District of Columbia Zoning Comm'n*, 33 A.3d 382 (D.C. 2011)
- *Durant v. District of Columbia Zoning Comm'n*, 65 A.3d 1161 (D.C. 2013)
- *D.C. Library Renaissance Project/West End Library Advisory Grp. v. District of Columbia Zoning Comm'n*, 73 A.3d 107 (D.C. 2013)
- *Capitol Hill Restoration Soc'y v. District of Columbia Zoning Comm'n*, 287 A.2d 101 (D.C. 1972)
- *Bostic v. District of Columbia Hous. Auth.*, 162 A.3d 170 (D.C. 2017)
- *Office of People's Counsel v. Pub. Serv. Comm'n*, 163 A.3d 735 (D.C. 2017)
- *Lange v. District of Columbia Bd. of Zoning Adjustment*, 407 A.2d 1058 (D.C. 1979)
- *Transportation Leasing Co. v. Dep't of Emp't Servs.*, 690 A.2d 487 (D.C. 1997)
- *Apartment & Office Bldg. Ass'n of Metro. Washington v. Pub. Serv. Comm'n*, 129 A.3d 925 (D.C. 2016)
- *Blagden Alley Ass'n v. District of Columbia Zoning Comm'n*, 590 A.2d 139 (D.C. 1991)
- *Lynch v. Masters Sec.*, 93 A.3d 668 (D.C. 2014)
- *Arthur v. District of Columbia Nurses' Examining Bd.*, 459 A.2d 141 (D.C. 1983)
- *Neighbors for Responsive Gov't, LLC v. District of Columbia Bd. of Zoning Adjustment*, 195 A.3d 35 (D.C. 2018)
- *Watergate E., Inc. v. Pub. Serv. Comm'n*, 665 A.2d 943 (D.C. 1995)
- *Barry Farm Tenants & Allies Ass'n v. District of Columbia Zoning Comm'n*, 182 A.3d 1214 (D.C. 2018)
- *Wilson Sporting Goods Co. v. Hickox*, 59 A.3d 1267 (D.C. 2013)