

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 259

CASE NO. 78-18

JANUARY 11, 1979

Pursuant to notice a public hearing of the District of Columbia Zoning Commission was held on November 20, 1978. At this hearing session the D.C. Zoning Commission considered an application from Joseph F. Horning to amend the D.C. Zoning Map.

FINDINGS OF FACT

1. The application requests a change of zoning from R-5-A to C-1 for a portion of lot 819 in square 3664. The site is heavily wooded and is located at the northwest corner of the intersection of Hawaii Avenue and Taylor Street, N.E.
2. The area of the subject site comprises approximately 1.8 acres.
3. The applicant proposes to construct a neighborhood shopping facility of approximately 13,000 square feet on the site.
4. The R-5-A District permits, as a matter of right, general residential use (including detached, semi-detached and row dwellings, flats, and apartments) with a maximum lot occupancy of forty percent, a maximum floor area ratio (FAR) of 0.9 and a maximum height limit of three stories/forty feet. The C-1 District permits, as a matter of right, neighborhood shopping facilities with a maximum FAR of 1.0, a maximum lot occupancy of sixty percent for residential use and a maximum height limit of three stories/forty feet.

5. The bulk of land in the immediate vicinity of the subject site is zoned R-5-A as a result of the number of institutions in this section of the city. The site is, in fact, surrounded by R-5-A zoning. The nearest lower density residential zoning, R-3, is found to the north between Allison and Crittenden Streets, N.E., east of North Capitol Street. An R-2 District is found north of Buchanan Street, east of the B&O and Metro tracks. A C-M-1 (Commercial and Light Manufacturing District) lies east of Brookland Avenue and the railroad line between Taylor Street and Michigan Avenue. A General Industry (M) district is located approximately 1/2 mile to the north of this site.
6. The area is generally characterized as a single-family residential community. There are many institutional neighbors, the principle one of which is Catholic University, to the south. The campus of Catholic University adjoins this property to the east and south. The main campus is located directly across Taylor Street from the subject property and continues southward to Michigan Avenue. The University- owned property across Hawaii Avenue from the site is now vacant, but is proposed for use as a future athletic facility. North of Varnum Street and west of 2nd Street are semi-detached homes and garden apartments. This neighborhood is zoned R-5-A although the majority of dwellings are semi-detached. Located some 600 feet east of this site are the Baltimore and Ohio railroad and the Red Line of the Metro system. The Brookland Metro station is located approximately 1/2 mile south of this site while the Fort Totten station lies an equal distance to the north. South of Taylor Street to the east of Brookland Avenue are a number of business establishments including Capital City Liquor wholesalers, a food warehouse, a moving and storage company, and a D.C. Department of Human Resources storage facility. All of these businesses are located in the C-M-1 zoned area east of the railroad tracks.
7. Lot 819 encompasses both the subject site and a proposed residential development to be built by the same applicant known as "The Heights", both of which are bounded by Hawaii Avenue, Taylor, Varnum, and Second Streets, N.E. The residential development proposes 67 fee simple town-houses and 150 apartment units and is not before the Zoning Commission for action.
8. Lot 819 was formerly owned by the Marist Brothers, whose seminary is located near the intersection of Taylor and 2nd Streets. The Seminary has retained approximately 3 acres of their former 16.11 acre site. The 13.1 acre site of "The Heights" development is heavily wooded and sloped generally downward toward Hawaii Avenue.

The 1.8 acre commercial site is situated at the lowest elevation and has the steepest gradient of the entire site.

9. "The Heights" project, of which the proposed commercial center is a part, will, if approved by the Board of Zoning Adjustment (BZA), generate a population estimated by the applicant to be 517 persons. A market study submitted by the applicant estimates that the Primary Trade Area to be served by the proposed commercial development (roughly three-fourths of the area of Census Tracts 95.1 and 95.2) to have a population 8,300. Planned for the proposed commercial center are establishments which would cater to the daily needs of the residents of "The Heights" as well as other nearby residents, students and employees of nearby institutions and employees of nearby business establishments.
10. There are at the present time a number of new residential developments in the vicinity of this site, a few of which have been completed, while others are in various stages of construction. The Arbor, at 3230 7th Street (south of Michigan Avenue), is a 130 unit apartment project built by Horning Brothers in 1976. University Park at Buchanan Street and Puerto Rico Avenue (1/2 mile east) has approximately 92 semi-detached units under construction with an additional 200+ units proposed for completion by 1985. Some 86 semi-detached units are under construction by the Penn Mar Company just north of University Park.
11. The only commercial uses in the general area of the subject site are the 12th Street Corridor extending north to Michigan Avenue, N.E. and at the intersection of South Dakota Avenue and Emerson Street, N.E. Both commercial districts are located within the boundaries of Census Tracts 95.1 and 95.2, lie east of the B&O/ Metro tracks, and are more than 1/2 mile from the subject site.
12. The applicant, by testimony presented at the public hearing, identified the ecological and environmental approach he intended to pursue in developing "The Heights". He demonstrated credibility for his regards for ecological and environmental concerns by making a slide presentation showing how he approached these issues in the construction of other residential complexes. The Commission so finds that the applicant's credibility for ecological and environmental concerns is without question.

13. The applicant submitted a market analysis of the proposed commercial center entitled The Potential for a Convenience Center in Northeast Washington, D.C. and gave testimony at the hearing concerning the economic need for the proposed center. The analysis determined that the current population within 1/2 mile of the site is approximately 8300 persons. Catholic University students and employees, area employees and residents yielded a potential market of approximately 10,000 persons within 1/2 mile of the site.
14. In 1977, with the creation of the Office of Business and Economic Development and the adoption of A Blueprint for Action: 1978-1980 Overall Economic Development Program for the District of Columbia, the city embarked on a program to stimulate and revitalize the city's economy. The program established a series of economic goals for the District in an attempt to reverse the city's declining share of business activity in the region. Although principally concerned with the revitalization of Downtown and other major economic development programs, one of the specific goals of the Blueprint included the provision of quality commercial services for all of the city's neighborhoods.
15. In its Draft Upper Northeast Plan of 1975, the poor quality or retail services in the Upper Northeast area was identified as a significant problem. In that plan, the Marist Seminary Tract was identified as a possible site for medium intensity development (row dwellings, garden apartments, institutional, commercial). Typical desired development would have consisted of clustered townhouses and garden apartments with common open space and neighborhood serving retail. Although the Draft Upper Northeast Plan has no official status, the planning efforts that preceded its formulation were extensive and represented a tremendous amount of work by the Municipal Planning Office and citizens' groups in the area, the Upper Northeast Coordinating Council (UNECC) in particular. Much of the work accomplished in the work accomplished in the preparation of the Draft Upper Northeast Plan has been incorporated into the on-going development of the City's Comprehensive Plan.
16. The Municipal Planning Office (MPO) has undertaken numerous efforts to encourage mixed use development in recent commercial zoning revisions and as in the creation of the CR District. "The Heights" proposal represents one form of mixed use development of the nature encouraged by MPO and demonstrates a viable response to the long-standing awareness of the need to improve neighborhood services in the northeast section

of the city.

17. The applicant has demonstrated his intent to provide the kinds of neighborhood retail services which would benefit the neighborhood and have minimal adverse neighborhood impacts by submitting letters of intent from a number of potential commercial tenants. The Commission **relies** on the good faith and creditable effort of the applicant, who has been before the Commission on several **previous occasions**, but notes that there is no guarantee that any of the potential tenants will, locate at the subject site.
18. The MPO, by memorandum dated November 17, 1978 and by testimony presented at the hearing recommended approval of the application on the grounds that the proposed rezoning would be **consistent with** the city's economic goal of providing neighborhoods with high quality retail services, and would encourage a very appropriate mixed use development, the proposed rezoning is likely to entail, a lack of potential adverse impacts and the low density and limited commercial use constraints of the C-1 District would be **compatible** with the area. The Commission so finds.
19. The D.C. Department of Transportation (DCDOT) , by memorandum dated December 6, 1978, identified no anticipated adverse parking or traffic problems to be generated by the commercial development. The Commission so finds.
20. The D.C. Fire Department, by memorandum dated November 8, 1978, indicated no anticipated adverse problems to be generated by the commercial development. The Commission so finds.
21. The D.C. Office Business and Economic Development, by memorandum dated November 13, 1978, supported the proposal.
22. The D.C. Public School, by reference in the MPO memorandum indicated that the rezoning of the subject site would have no effect on the D.C. Public School system. The Commission so finds.
23. The D.C. Department of Housing and Community Development, by reference in the MPO memorandum, reviewed "The Heights" under the provisions of the Large Tract Development Process and has no objections to the proposed rezoning.

24. Catholic University, by testimony presented at the hearing, supported the proposal with the condition that the applicant honor a recordable covenant between the University and the applicant, prohibiting certain commercial uses in the development which the University did not favor. Many of the uses are not permitted in a C-1 District.
25. Persons in support of the proposal, by testimony presented at the hearing, indicated that the development of "The Heights" would discourage continuation of the existing litter and dumping problem along Hawaii Avenue.
26. Persons in opposition to the proposal, by testimony presented at the hearing, indicated that area commercial uses were not needed and would generate traffic, parking, litter dumping, loitering, criminal, and covenant enforcement problems. The Commission finds that the testimony of the applicant and the MPO demonstrates that there's a need for neighborhood shopping facilities in this area. As to the parking, traffic and other problems, the Commission finds that the proposed commercial zoning is a reasonable use of the property, that the report of the Department of Transportation established that there would be no unacceptable traffic or parking effects and that the other problems referred to by the opposition are either unlikely to occur or can be accommodated without serious problems.
27. Advisory Neighborhood Commission-4D submitted no statement for the record. However, two single member district Commissioners appeared and presented testimony at the hearing. One testified in support of and one testified in opposition to the proposal.
28. The application was referred to the National Capital Planning Commission under the terms of the District of Columbia Self Government and Governmental Reorganization Act, and the National Capital Planning Commission reported that the proposed amendment would not have an adverse impact on the interests or functions of the Federal Establishment within the National Capital.

CONCLUSIONS OF LAW

1. Rezoning to C-1 is in accordance with the Zoning Act (Act of June 20, 1938, 52 Stat. 797), by furthering the general public welfare and serving to stabilize and improve the area.

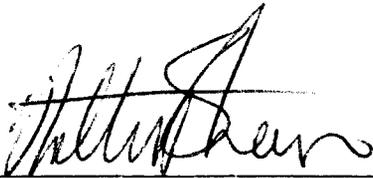
2. Rezoning to C-1 will promote orderly development in conformity with the entirety of the District of Columbia Zoning Plan as embodied in the Zoning Regulations and Map of the District of Columbia.
3. Rezoning to C-1 will not have an adverse impact on the surrounding neighborhood.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Commission hereby ORDERS APPROVAL of the following action:

Change from R-5-A to C-1 a portion of lot 819 in square 3664, as shown on the plat of survey marked as Exhibit No. 5 of the record, located at the northwest corner of the intersection of Hawaii Avenue and Taylor Street, N.E., comprising approximately 1.8 acres.

Vote of the Commission taken at the public meeting of December 14, 1978: 4-0 (Walter B. Lewis, Theodore F. Mariani, Ruby B. McZier and John G. Parsons to approve - George M. White not voting, not having participated in the case.



WALTER B. LEWIS
Chairman
Zoning Commission



STEVEN E. SHER
Executive Director
Zoning Secretariat

This order was adopted by the Zoning Commission at its public meeting held on January 11, 1979 by a vote of 3-0 (Theodore F. Mariani, John G. Parsons, and Walter B. Lewis, to adopt, Ruby B. McZier, and George M. White, not present, not voting).

In accordance with Section 2.61 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, this amendment of the zoning map is effective on 20 JAN 1979.