

# Government of the District of Columbia

## ZONING COMMISSION



ZONING COMMISSION ORDER NO. 394

Case No. 82-5

April 18, 1983

Pursuant to notice, a public hearing was held by the District of Columbia Zoning Commission on November 8, 22, & 29 and December 6 & 13, 1982, and January 24, 1983. At those hearing sessions, the Zoning Commission considered amendments to the parking and loading provisions of the Zoning Regulations, pursuant to Section 9101 of the Zoning Regulations. The hearings were conducted under the provisions of Chapter 5 of the Rules of Practice and Procedure before the Zoning Commission.

The proposal to amend the Zoning Regulations is a comprehensive effort sponsored jointly by the D.C. Department of Transportation (DCDOT) and the Office of Planning (formerly known as the Office of Planning and Development). The proposal requested the Zoning Commission to consider amending all aspects of the Zoning Regulations that concern the regulation of parking and loading, including but not limited to Article 12 (Definitions), Article 41 (Special Purpose District), Article 44 (Waterfront District), Article 45 (CR District), Article 72 (Off-Street Parking Requirements), Article 73 (Off-Street Loading Requirements), Article 74 (Special Regulations for Garages, Carports, Parking Lots, and Gasoline Service Stations), and Article 82 (Board of Zoning Adjustment).

On September 14, 1978 the Zoning Commission adopted amendments to the Zoning Regulations that included comprehensive revisions to the SP Districts. By Order # 235 the Zoning Commission adopted Paragraph 4101.41 as follows:

4101.41 Parking lot, in existence on October 5, 1978 under approval by the Board of Zoning Adjustment may be permitted by the Board to continue in existence for a period not to exceed four years from the date that the present Certificate of Occupancy expires provided that:

In the Statement of Reasons which accompanied the order, the Zoning Commission set out as one of the major goals of the revised SP regulations:

Set a reasonable parking policy. The existing SP regulations permitted parking lots and garages with approval of the Board of Zoning Adjustment, consistent with the original intent of the District to provide parking as a supporting use for the downtown area. This has resulted in large areas presently zoned SP devoted to parking uses throughout the SP District. As a result, some localized areas became saturated with parking. The regulations as proposed severely cut back on allowing surface parking lots, which are aesthetically unappealing and represent a very low intensity of land use in a district where high density uses are permitted. The regulations do however allow for continued construction of parking garages, provided that adequate safeguards are built in.

In describing the regulations adopted by Order No. 235, the Statement of Reasons noted:

The regulations regarding parking were changed to sharply cut back on surface parking lots, and also to severely curtail commuter parking. New surface parking lots are not permitted unless they are accessory to uses permitted in the SP District. Accessory parking garages continue to be permitted. Parking garages as principal uses can be provided if approved by the Board of Zoning Adjustment, only if they do not serve all-day commuter parking. All these changes were designed to respond to the City's Goals and Policies, particularly as to air quality, transportation and land use.

It was the anticipation of the Zoning Commission that existing parking lots in SP Districts would be phased-out over the four year period provided, and that new mixed-use or residential development would occur on those sites.

The Zoning Commission conducted hearings on the comprehensive proposal and on February 7, 1983 the Commission closed the record in this case relative to the issues associated with the length of time that a parking lot in an SP District may continue to operate.

There were no Advisory Neighborhood Commissions that expressed concerns relative to the aforementioned issue.

A notice of proposed rulemaking was published in the D.C. Register on March 18, 1983. Resulting from that publication, three letters in support of the proposed

amendment from parking lot operators and one letter from the Dupont Circle Citizens Association (DCCA) in opposition were received.

The DCCA by letter dated April 15, 1983 opposed the amendment because commuter parking lots in the Dupont Circle SP Districts create eye-sores, encourage an increase of traffic, crime and pollutants, and provide minimal, if any, tax revenues to the City.

The record before the Commission reflects that significant new mixed-use or residential development has not occurred. The state of the economy and the condition of the financial market has resulted in little new development activity in the SP areas. Further, delays have occurred in the construction scheduling of the Metrorail system, resulting in less effective transit service being in place than the Commission anticipated 1978. The assumptions underlying the four year phase-out period have thus changed.

The Commission thus believes that it is appropriate to allow parking lots that were already in existence in 1978 to remain in operation for a definite period into the future. To leave the regulations as they now are would force property to remain vacant or would require applicants to seek use variances. While the Board of Zoning Adjustment (BZA) is capable of processing and deciding use variance applications, the standards against which such applications must be measured are very rigorous.

The Commission believes that BZA applicants should not have to meet that test when the development assumptions that were the basis of the four year period are no longer valid. The Commission notes however that it is still committed to the major goal set forth above: the eventual reduction and elimination of the majority of surface parking lots in SP Districts. All that is at issue here is the timing of that result.

The Commission is mindful of the concerns of the DCCA. However, upon balancing all of the related factors, the Commission believes that the realities of development in the present economic climate from a practical point-of-view make it unlikely that significant development will quickly occur on the present parking lots.

The Commission further believes that to preclude interim parking use of these existing unimproved properties, may well result in the properties being left vacant and unattended, and potentially adversely affecting the areas in which they are located.

The decision by the Zoning Commission in this order is an action on a part of the larger and more comprehensive

consideration to amend the parking and loading provisions of the Zoning Regulations. The Commission will consider a decision on the larger portion of this case at a later time.

The proposed amendments to the Zoning Regulations were referred to the National Capitol Planning Commission (NCPC) under the terms of the District of Columbia Self Government and Governmental Reorganization Act. The NCPC by report dated March 3, 1983, indicated that the proposed amendments would not adversely affect the Federal Establishment and other Federal interests in the National Capital nor be inconsistent with the Comprehensive Plan for the National Capital.

The Zoning Commission believes that the proposed amendment to the Zoning Regulations is in the best interests of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations Act.

In consideration of the reasons set forth herein, the Zoning Commission hereby orders APPROVAL to amend the Zoning Regulations.

The specific proposed amendment is to delete the word "four" in Paragraph 4101.41 and replace it with the word "six", so that Paragraph 4101.41 would read as follows:

4101.41 Parking lot, in existence on October 5, 1978 under approval by the Board of Zoning Adjustment may be permitted by the Board to continue in existence for a period not to exceed six years from the date that the present Certificate of Occupancy expires provided that:

Vote of the Commission taken at the public meeting on February 14, 1983: 4-0 (Walter B. Lewis, Maybelle T. Bennett, John G. Parsons, and Lindsley Williams, to approve - George M. White, not present not voting).

Vote of the Commission taken at the public meeting on April 18, 1983: 5-0 (Walter B. Lewis, John G. Parsons, George M. White, Maybelle T. Bennett, and Lindsley Williams, to adopt as amended).

In accordance with Section 4.5 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, this order is final and effective upon publication in the <sup>D.C.</sup> Register, specifically on

MAY - 6 1983



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LINDSLEY WILLIAMS  
Chairman  
Zoning Commission



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STEVEN E. SHER  
Executive Director  
Zoning Secretariat

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