

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 409

Case No. 83-1

September 19, 1983

Pursuant to notice, a public hearing of the District of Columbia Zoning Commission was held on July 11, 1983. At that hearing session the Zoning Commission considered an application from the W.C. and A.N. Miller Development Company to amend the Zoning Map of the District of Columbia, pursuant to Section 9101 of the Zoning Regulations of the District of Columbia. The hearing was conducted in accordance with the provisions of Chapter 6 of the Rules of Practice and Procedure before the Zoning Commission.

FINDINGS OF FACT

1. The application which was filed on January 12, 1983 requested a change of zoning from R-1-A to C-2-A for a portion of lot 822 (2.275 acres), and from C-2-A to R-1-A for a portion of lot 817 (0.837 acres), both in Square 1467. The subject site is located on the west side of 49th Street, immediately south of Massachusetts Avenue, N.W. in the Spring Valley neighborhood. The remaining portions of lots 822 and 817 are not subject to rezoning.
2. The existing area in the subject square zoned C-2-A contains 92,868 square feet total. The area proposed for C-2-A zoning would be 157,415 square feet. The application proposes to change 36,229 square feet of land now zoned C-2-A to R-1-A, and 100,415 square feet of land now zoned R-1-A to C-2-A.
3. The applicant proposed to construct a commercial development on the resulting C-2-A property.
4. The R-1-A District permits matter-of-right development of single-family residential uses for detached dwellings with a minimum lot area of 7,500 square feet, a minimum lot width of seventy-five feet, a maximum lot occupancy of forty percent, and a maximum height of three stories/forty feet.
5. The C-2-A District permits matter-of-right low density

development including office, retail, and all kinds of residential uses to a maximum floor area ratio (FAR) of 2.5 with non-residential uses limited to 1.5 FAR, a maximum height of fifty feet, and a maximum lot occupancy of sixty percent for residential uses.

6. There is existing C-2-A zoning in the immediate area of the subject site on both sides of 49th Street and Massachusetts Avenue between Yuma Street, and Fordham Road and 48th Street. To the northwest, north, east, and south of the subject site is R-1-B zoning. To the southeast of the site is R-4 zoning. To the southwest and west of the site is R-1-A zoning.
7. Uses in the area include single-family detached houses, characteristic of the R-1-B zoning, and commercial uses including restaurants, a large food store, a six-story commercial building, a gasoline station, a department store and specialty and retail shops in the C-2-A District.
8. To the west of the subject site is a thirty-nine-acre undeveloped wooded site that is owned by the applicant. That site is proposed to be developed with 168 to 172 R-1-A type single-family detached houses as a matter-of-right, with review by the District of Columbia under the large-tract review process.
9. The applicant has entered into an agreement with Advisory Neighborhood Commission 3D and the Spring Valley/Wesley Heights Citizens Association which will place covenants on the development of the 42.6 acres of land that the applicant owns of which this application represents a small segment. The proposed new commercial development will be limited by covenant to an additional 121,671 square feet of gross floor area, exclusive of the parking deck. This would be in addition to an existing building having about 36,000 square feet of floor area. The present zoning allows up to 104,000 square feet of additional commercial development and 93,000 square feet of residential development. Prior to the public hearing, the applicant filed with the Commission a copy of the executed and recorded agreement with attached proposed form of covenant.
10. The subject site is improved with an existing three-story office building with approximately 36,000 square feet of floor area. The rest of the site is undeveloped, with a substantial portion paved to provide surface parking. No more than an additional five commercial buildings are proposed to be built in accordance with the aforesaid Agreement and proposed covenant: (1) Building "A" fronting on Massachusetts

Avenue and Yuma Street will have no more than 73,671 square feet of gross floor area; (2) Buildings "B" and "C" fronting on 50th Street will each have no more than 12,000 square feet of gross floor area; Building "D" fronting on Warren Street will have no more than 12,000 square feet of gross floor area; and Building "E" fronting on 49th Street will have no more than 12,000 square feet of gross floor area.

11. The covenant proposed that Building "A" would be of brick construction and would be three floors and forty feet high along the Massachusetts Avenue and Yuma Street frontage. Buildings "B", "C", "D" and "E" would be no more than two floors high in front, facing the public streets, and will also be of brick construction. The above-described buildings will be for office use except for the first floor (Massachusetts Avenue level) of the existing building at 4900 Massachusetts Avenue and the first floor (Massachusetts Avenue/Yuma Street level) of Building "A". These floors will be retail space.
12. The covenant proposed to a surface parking lot, the grade of which will be approximately nine feet below the grade of 49th Street between Fordham Road and Massachusetts Avenue, and the adequacy of which will meet the required parking standards. The only vehicular access to the proposed parking area will be from 50th Street. The existing parking area (approximately 4,000 square feet) will be used for the same purposes as at present with vehicular access from 49th Street only and with no vehicular access to the proposed new parking area.
13. The covenant, by testimony at the public hearing had agreed to certain architectural guidelines for the commercial development. These guidelines include the landscaping of the commercial buildings, the illumination of building entrances and walkways with shielded lights, restrictions on the size of signs, and architectural treatments of windows and entrances. The primary goal shared by the citizens and the applicant was to develop a plan for the commercial portion of the site that complemented and enhanced the surrounding residential neighborhood.
14. The requested rezoning and reconfiguration of C-2-A property orients the commercial development towards Massachusetts Avenue and away from existing residential development to the west. The rezoning also carries out the Agreement between the applicant and citizen groups in the area when the master plan for development for the entire tract was agreed upon. By enlarging the C-2-A area, the applicant would be able to

imaginatively develop the commercial portion of the site. The additional land area and reduced development density also would enable the applicant to comply with citizen requests to build a cluster of smaller commercial structures with a residential scale in appearance.

15. The requested rezoning is consistent with the City's policies contained in the District of Columbia Goals and Policies Act of 1978 in many respects. It promotes efficient and increased use of public transit resulting in reduced automobile emissions and use throughout the City. It promotes effective stormwater management including stormwater storage and control of erosion and sedimentation. All vehicular access to the development has been carefully designed to minimize noise impact in surrounding residential areas. The proposed development meets all District of Columbia energy requirements. The proposed development has also been designed to enhance the permanent character and values of the Spring Valley neighborhood. The project will expand the tax base of the District of Columbia both during and after construction and will make appropriate use of land that has been vacant for many years.
16. The intersection of Massachusetts Avenue and 49th Street is currently operating at level of service "B" during the morning peak hours. When the trips to be generated by the proposed development are added, this intersection would then be operating at a level of service "C", a satisfactory level of service for peak hour operation. During the evening peak hour, the intersection is currently operating at level of service "B" and it would remain at that level when the generated trips are added to the existing volume. The intersection of Massachusetts and Yuma Street and the intersection of Massachusetts Avenue and 50th Street are currently operating at level of service "A" at both peak hours. When the traffic from the proposed development is added to that, the morning peak hours for both will go from level of service "A" to level of service "B", while the evening peak hours for both will remain at the "A" level.
17. The Office of Planning, by memorandum dated June 30, 1983, and by testimony presented at the public hearing, recommended approval of the application, subject to the implementation of the Agreement and Covenant. The Office of Planning believed that the signed Agreement and Covenant would safeguard the character of the area and any potential negative impact on the adjacent residential district. The Office of Planning further believed that the proposed reconfiguration and expansion of the C-2-A district would allow for more

efficient, economical and attractive development of the site. Because of the proposed access to the parking area, the Office of Planning also felt that the proposed commercial vehicular traffic would not impact the residential streets. The Office of Planning believed that the residential development of the adjacent thirty-nine acres would increase the need for convenience retail and some office uses so that the potential commercial development seems to be a benefit to the area.

18. The Office of Planning cited numerous benefits to the City and neighborhood from the proposed development:
 - a. It will provide convenient shopping to the present and future residents of the area.
 - b. It will provide 120 permanent office/retail jobs and 110 construction phase jobs in the District of Columbia, enhancing the job market for residents of the District of Columbia.
 - c. The city tax base will be increased by an estimated \$250,000 annually in direct real property, personal property and parking sales taxes.

The Office of Planning further noted that the cost of the public services the City will have to provide will be minimal since the developer will be responsible for all capital improvements and user charges will be imposed for use of water, sewage disposal and other utility services.

19. The D.C. Department of Transportation (DCDOT), by memorandum dated June 21, 1983 and by testimony presented at the public hearing, recommended approval of the application. The DCDOT's traffic analysis indicated that the surrounding street system can accommodate the traffic generated by the proposed development. The DCDOT's report also stated that the applicant must coordinate all design and construction elements within public space with the DCDOT and assume the cost of these elements.
20. The Office of Business and Economic Development (OBED), by memorandum dated June 28, 1983 had no objection to the proposed map amendment. In addition to the positive impact the proposed development would have on jobs and taxes for the City, OBED also cited other important potential economic developments of the project including the following:
 - a. The proposed Zoning Map amendments are compatible

with and responsive to the long-term development objectives for the entire forty-three acre tract, and would permit coordination of commercial development with the residential development underway through the Large Tract Review process.

- b. The proposed C-2-A zone reconfiguration, if approved, would permit construction of commercial and retail uses to proceed pending phased construction of 168 to 172 detached residential units on the remaining thirty-nine acres over the next five-to-ten years.
 - c. Potential direct job and tax revenues and other indirect benefits resulting from the development of a new uptown commercial center with supporting convenience retail-type shops and services.
- 21. Advisory Neighborhood Commission - 3D, by letter dated January 10, 1983 and by testimony presented at the public hearing, supported the application, subject to the execution of a covenant between the applicant, and the ANC-3D and the Spring Valley-Wesley Heights Citizens Association (SVWHCA). The ANC testified about the long negotiation process with the applicant and the SVWHCA to reach a mutually satisfactory development plan for the site. The settlement items included an agreement on the number of dwelling units and site plan for the Large Tract Review site, the appearance of and uses for the commercial development, urban design, landscaping, and other features.
 - 22. The Spring Valley-Wesley Heights Citizens Association, by letter dated January 3, 1983 and by testimony presented at the public hearing, supported the application, subject to the execution of the Agreement and Covenant.
 - 23. Advisory Neighborhood Commission - 3E, the neighboring ANC including property across Massachusetts Avenue, by letter dated July 25, 1983, supported the application because ANC-3E entered into an agreement with the applicant that resolved ANC-3E's concerns regarding traffic flow and the installation and maintenance of traffic signals at 49th and Yuma Streets, and Yuma Street and Massachusetts Avenue.
 - 24. Elizabeth Nelson, by letter dated July 6, 1983, opposed the application because of too much area congestion, pollution, and the presence to too many commercial uses.
 - 25. Anne Hartwell, by testimony presented at the public hearing, opposed the application because of her perception of the proliferation of commercial districts in the neighborhood.

26. The Commission concurs with the Office of Planning in that the reconfiguration and expansion of the existing C-2-A District would allow for more efficient, economical, and attractive development.
27. The Commission finds that sound planning and policy objectives are enhanced by rezoning to R-1-A the southern portion of the existing C-2-A area on 49th Street and relocating the C-2-A closer to the commercial activities at 49th Street and Massachusetts Avenue. This action better preserves the residential character of the Fordham Road-end of 49th Street.
28. The Commission also concurs with the DCDOT and the applicant's traffic consultant regarding the determination that the proposal would not adversely affect the surrounding street system.
29. The Commission finds that the reconfiguration and expansion of the C-2-A District is warranted and justified to support the anticipated commercial needs of the residents who will live on the residential portion of the larger site.
30. The Commission notes the execution of an agreement to enter into a covenant between the applicant, and the ANC-3D and the SVWHCA, which covenant will control development of the site, as set forth herein.
31. The action of the Zoning Commission to approve the application was referred to the National Capital Planning Commission (NCPC) under the terms of the District of Columbia Self Government and Governmental Reorganization Act. The NCPC reported that the proposed action of the Zoning Commission would not adversely affect the Federal Establishment or other Federal interests in the National Capital nor be inconsistent with the Comprehensive Plan for the National Capital.

CONCLUSIONS OF LAW

1. Rezoning to C-2-A and R-1-A as set forth herein is in accordance with the Zoning Act (Act of June 20, 1938, 52 Stat., 797) furthering the general public welfare and serving to stabilize and improve the area.
2. Rezoning to C-2-A and R-1-A as set forth herein 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-2-A and R-1-A as set forth herein will

not have an adverse impact on the surrounding neighborhood.

4. The recorded Agreement and Covenant controlling development of the subject site under the C-2-A district can be recognized by the Commission, and will help ensure appropriate development of the site.
5. The Commission takes note of the support for this application by Advisory Neighborhood Commission 3D and in its decision has accorded to ANC-3D the great weight to which it is entitled. The Commission also takes note of the position of Advisory Neighborhood Commission 3E.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission of the District of Columbia hereby orders APPROVAL of the following:

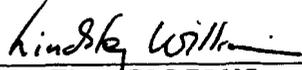
1. Change from R-1-A to C-2-A a portion (100,415 square feet) of lot 822 in Square 1467 @ 49th Street and Massachusetts Avenue, N.W., the resulting zoning of which is shown in attachments B and C of this order; and
2. Change from C-2-A to R-1-A that portion (36,229 square feet) of lot 817 in Square 1467 that is zoned C-2-A, excluded from the above rezoning, and is shown in attachment "B" of this order.

Vote of the Commission at the public meeting held on August 15, 1983: 5-0 (Walter B. Lewis, George M. White, Maybelle T. Bennett, John G. Parsons, and Lindsley Williams, to approve).

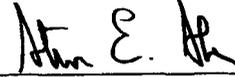
This order was adopted by the Zoning Commission at its public meeting held on September 19, 1983 by a vote of 4-0: (Walter B. Lewis, John G. Parsons and Maybelle T. Bennett, to adopt as amended and Lindsley Williams, to adopt by absentee vote - George M. White, not present not voting).

In accordance with Section 4.5 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, this amendment to the Zoning Map is effective upon publication in the D.C. Register, specifically on

~~SEP 30 1983~~.

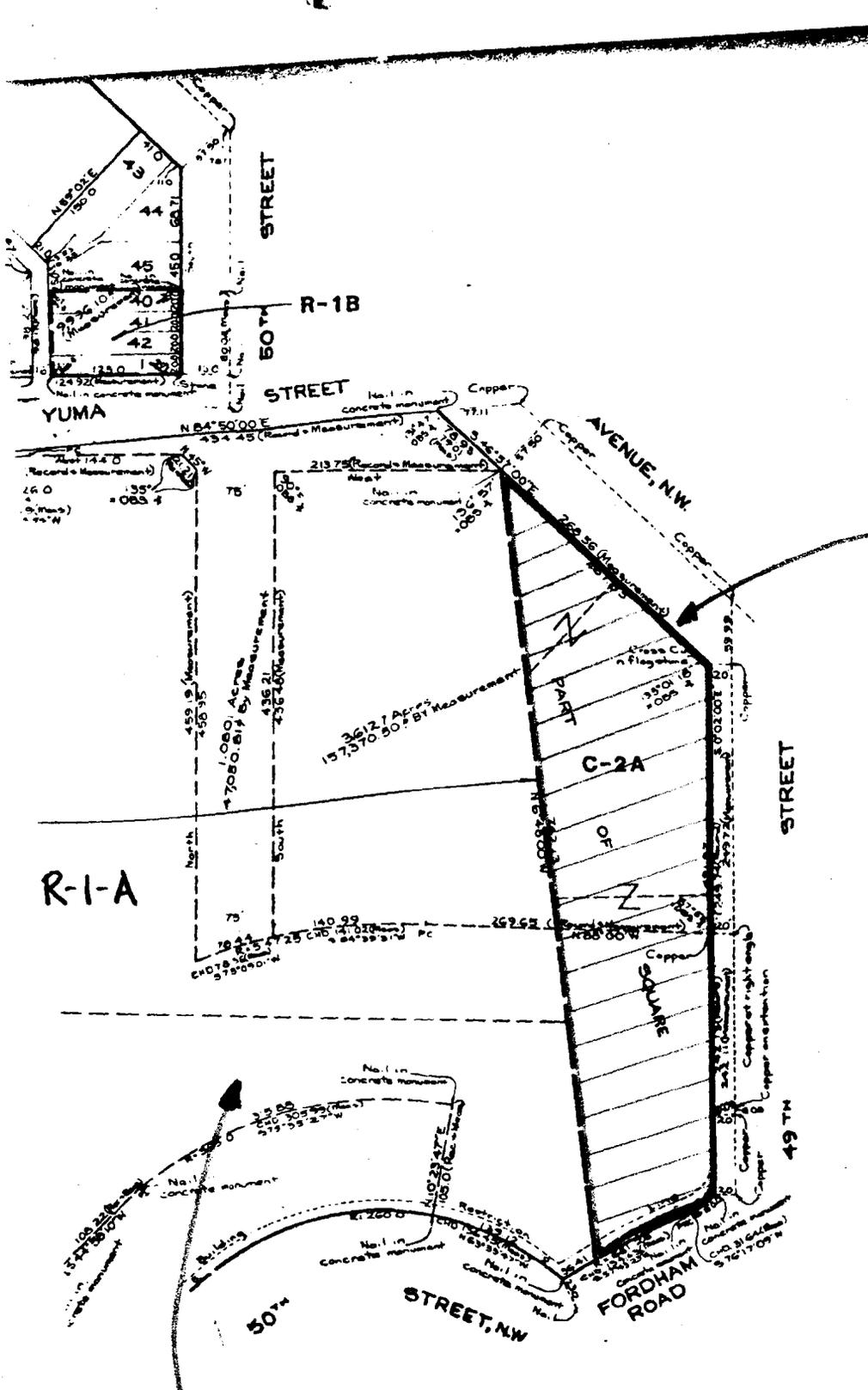


LINDSLEY WILLIAMS
Chairman
Zoning Commission



STEVEN E. SHER
Executive Director
Zoning Secretariat

409order/BOOTHC

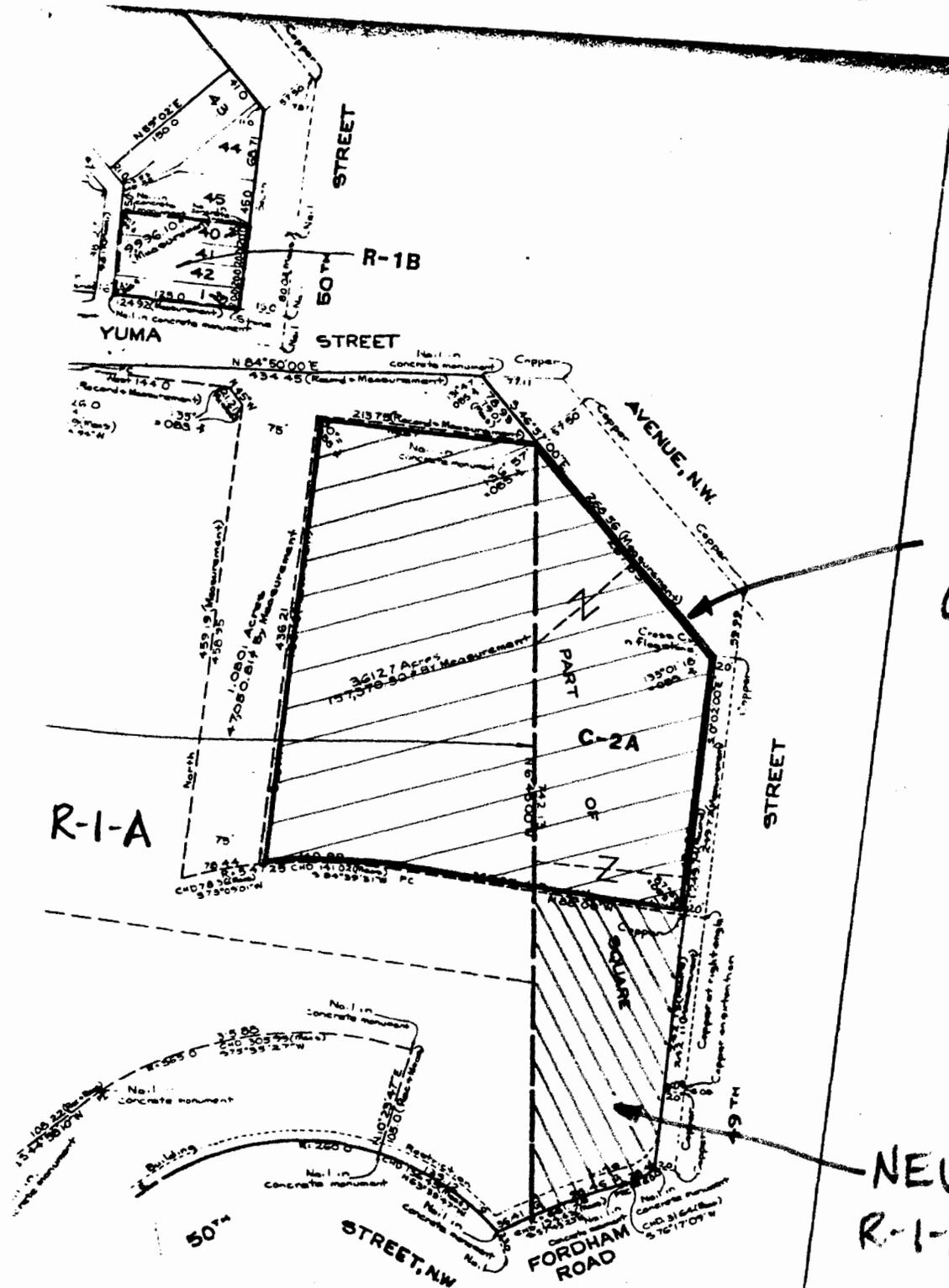


EXISTING
C-2-A

R-1-A

EXISTING R-1-A

Z.C. ORDER # 409 - ATTACHMENT "A"



NEW
C-2-A

NEW
R-1-A

Z.C. ORDER # 409 - ATTACHMENT "B"



ENGINEERS • PLANNERS • LANDSCAPE ARCHITECTS • SURVEYORS
 4701 SANGAMORE ROAD
 BETHESDA, MD. 20816
 301 229-4100

18 July 1983
 DESCRIPTION OF
 TOTAL AREA TO BE ZONED C-2-A
 SPRING VALLEY
 WASHINGTON D.C.

1983 JUL 29 PM 4: 00
 DISTRICT OF COLUMBIA

Beginning for the same at a point marking the intersection of the south-westerly right of way line of Massachusetts Avenue, N.W. and the westerly right of way line of 49th Street, N.W. and running with the said line of 49th Street, N.W.

- 1) South 00°01'39" West 249.72 feet - measured (249.74' record) to a point, thence departing 49th Street, N.W. and running so as to cross and include a portion of square 1467 the following four (4) courses and distances:
- 2) North 88°00'00" West 269.65 feet (record and measurement) to a point, thence
- 3) By a curve to the left having a radius of 547.25 feet, a chord bearing and distance of South 84°46'26" West 140.98 and an arc distance of 141.38 feet - computed (140.99' - record; 141.02' - measured) to a point, thence
- 4) Due North 436.48 feet (436.21' record) to a point, thence
- 5) Due East 213.75 feet (record and measurement) to a point on the afore-said line of Massachusetts Avenue, N.W. and running with said line
- 6) South 46°57'00" East 268.56 feet-measured (267.63 - record) to the point of beginning containing 3.614 acres of land.

Z.C. ORDER # 409 - ATTACHMENT "C"