

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 468

CASE NO. 83-6

November 4, 1985

(C-3-A District Provisions of the Zoning Regulations
re: Fast-food Restaurants)

On May 24, 1985, the District of Columbia Zoning Commission published a second revised notice of proposed rulemaking in the D.C. Register regarding the definition and regulation of fast food restaurants in the District of Columbia. The Commission solicited written comments thereto from interested persons.

On July 8, 1985, at its regular monthly meeting, the Zoning Commission, by Z.C. Order No. 440, took final action and adopted new amendments to the text of the Zoning Regulations regarding fast-food restaurants. Z.C. Order No. 440, in part, permits fast-food restaurants to locate in a C-3-A District as a matter-of-right, including a drive-through.

At that same meeting and prior to adopting Z.C. Order No. 440, the Zoning Commission considered comments from various persons regarding the treatment of fast-food restaurants in the C-3-A Districts. Subsequent to discussion, the Commission determined that it would reserve final disposition of the treatment of fast-food restaurants in the C-2-B, C-2-C, and/or C-3-A Districts,

The Zoning Commission requested the D.C. Office of Planning (OP) to analyze the potential impact of fast-food restaurants locating in the C-3-A Districts and report to the Commission.

The OP, by memorandum dated July 25, 1985, recommended the retention of the matter-of-right provisions of the Zoning Regulations regarding fast-food restaurants in a C-3-A District. The OP recommended, in the alternative, that fast-food restaurants be permitted to locate in a C-3-A District is a matter-of-right provided that:

- a. No part of the lot on which the use is located shall be within twenty-five feet (25') of a Residence District unless separated therefrom by a street or alley;

- b. If any lot line of the lot abuts an alley containing a zone boundary line for a Residence District, a continuous brick wall at least six feet (6') in height and twelve inches (12") thick shall be constructed and maintained on the lot along the length of that lot line: and
- c. Any refuse dumpsters shall be housed in a three (3) sided brick enclosure equal in height to the dumpster or six feet (6'), whichever is greater. The entrance to the enclosure shall include an opaque gate. The entrance shall not face a Residence District.

The OP believes that sufficient safeguards were adopted in Z.C. Order No. 440 to minimize adverse impacts upon an adjacent Residence District. The OP further believes that the general purpose of the C-3-A District, the nature and type of uses permitted, and the intensity of development contemplated in the C-3-A District renders it inappropriate to single-out fast-food restaurants.

The Zoning Commission notes that, of the ten areas in the City that are zoned C-3-A as identified in the OP report, all of them are adjacent, along one or more sides, to a Residence District. The Commission notes that its concern to protect Residence Districts adjacent to C-1 and C-2-A Districts, led to the prohibition of fast-food restaurants from locating as a matter-of-right in those low-density commercial districts.

The Commission determined that there were low-density and medium-density Residence Districts that were located adjacent to all of the C-3-A Districts although often separated by a street or alley. The Commission believes that such Residence Districts also deserved protection from potential adverse affects that could be created by a fast-food restaurant, as well as those Residence Districts adjacent to the C-1 and C-2-A Districts.

As to the concerns of the OP, the Commission is mindful of the intent and purpose of the C-3-A District, and the permitted uses, height, and density. The Commission concurs, in part, with the alternative recommendations of the OP. However, the Commission believes that a balance of interests must be struck and that, in its decision, has done so.

The Commission determined that the safeguards, that were adopted in Z.C. Order No. 440 regarding the location of fast-food restaurants in the C-2-B and C-2-C Districts, are adequate to protect any adjacent Residence Districts.

The proposed amendments to the Zoning Regulations affecting fast-food restaurants in the C-3-A Districts were referred

to the National Capital Planning Commission (NCPC), under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. The NCPC, by report dated October 3, 1985, determined that the proposed amendments 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.

The Zoning Commission published a notice of proposed rulemaking in the D.C. Register on September 13, 1985 and solicited written comments from interested persons. The Commission received comments from Advisory Neighborhood Commission - 3F, by letter dated October 25, 1985, and the Anacostia Coordinating Council, by letter dated October 28, 1985.

As a result of those comments, the Commission made non-substantive modifications to the proposed amendments by affecting the following:

1. The proximity of a lot on which the use is located to a Residence Districts;
2. The orientation and location of customer entrances; and
3. A procedural matter regarding an administrative referral.

The Zoning Commission believes that the amendments to the Zoning Regulations contained herein are in the best interest of the District of Columbia, are consistent with the intent and purpose of the Zoning Regulations and Zoning Act, and are not inconsistent with the Comprehensive Plan of the District of Columbia,

In consideration of the reasons set forth herein, the Zoning Commission of the District of Columbia hereby orders APPROVAL of amendments to the Zoning Regulations regarding fast-food restaurants in the C-3-A Districts.

The text amendments set forth below reference the format and numbering system of the July 1985 and May 1984, editions of the District of Columbia Municipal Regulations (DCMR) Title 11. The numbers contained in the brackets reference the numbering system of the Provisional Edition of the DCMR Title 11, dated August, 1983. The specific amendments to DCMR Title 11 (the Zoning Regulations) are as follows:

1. Permit fast food restaurants in a C-3 and less restrictive District as a matter-of-right by amending Section 741.3(c) [5103.333] as follows:

741.3(c) [5103.333] Fast food restaurant, provided that

in a C-3-A District, no part of the lot on which the use is located shall be within twenty-five feet (25') of a Residence District, unless separated therefrom by a street or alley.

2. Permit fast food restaurants in a C-3-A District as a special exception, subject to review and approval by the Board of Zoning Adjustment by adding a new Section 743.4 [5103.48] as follows:

743.4 [5103.48] Fast food restaurant in a C-3-A District, where the lot on which the use is located is within twenty-five feet (25') of a Residence District and is not separated therefrom by a street or alley, provided that:

(a) Any refuse dumpsters shall be housed in a three (3) sided brick enclosure equal in height to the dumpster or six feet (6'), whichever is greater. The entrance to the enclosure shall include an opaque gate. The entrance shall not face a Residence District;

(b) The use shall be designed and operated so as not to become objectionable to neighboring properties because of noise, sounds, odors, lights, hours of operation or other conditions;

(c) The use shall provide sufficient off-street parking, but no less than required by Section 2101.1 [Sub-section 7201.11, to accommodate the needs of patrons and employees;

(d) The use shall be located and designed so as to create no dangerous or other objectionable traffic conditions;

(e) There shall be adequate facilities to allow deliveries to be made and trash to be collected without obstructing public rights-of-way or unreasonably obstructing parking spaces, aisles or driveways on the site;

(f) There shall be no customer entrance in the side or rear of a building that faces a zone boundary line for a Residence District: and

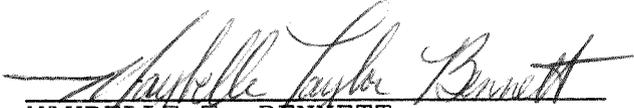
(g) The Board may impose conditions pertaining to design, screening, buffering, lighting, soundproofing, off-street parking spaces, signs, method and hours of trash collection or any other matter necessary to protect adjacent or nearby property.

Each application submitted under this section shall be referred to the Office of Planning for coordination review by all relevant District agencies for report and impact assessment.

Vote of the Commission taken at the public meeting on August 1, 1985: 3-0 (Lindsley Williams, John G. Parsons, and Maybelle T. Bennett, to approve - George M. White and Patricia N. Mathews, not voting not having participated in the discussion),

This order was adopted by the Commission at the public meeting on November 4, 1985 by a vote of 4-0 (Lindsley Williams, Patricia N. Mathews, John G. Parsons, and Maybelle T. Bennett, to adopt as amended - George M. White, not present, not voting).

In accordance with Section 4.5 of the Rules of Practice and Procedure before the Zoning Commission, this order is final and effective upon publication in the D.C. Register, specifically on 20 DEC 1985.


MAYBELLE T. BENNETT
Chairperson
Zoning Commission


CECIL B. TUCKER
Acting Executive Director
Zoning Secretariat

order 468/BJW5