

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 740

Case No. 92-18

(Map Amendment @ Safeway/Sears)

July 12, 1993

Pursuant to notice, a public hearing was held by the Zoning Commission for the District of Columbia on March 29, 1993. At that hearing session, the Zoning Commission considered an application from Safeway Stores, Inc., to amend the Zoning Map of the District of Columbia, pursuant to Section 102 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning. The public hearing was conducted in accordance with the provisions of 11 DCMR 3022.

FINDINGS OF FACT

1. The application, which was filed on November 23, 1992, requested a change of zoning from R-5-A to C-3-A for a portion of Lot 1 in Square 5642.
2. The applicant seeks the change of zoning to allow for the demolition of the abandoned Sears Department Store, and the construction of a "Safeway Marketplace" grocery store at 2845 Alabama Avenue, S.E.
3. Square 5642 is bounded by Alabama Avenue to the north, Naylor Road to the west, Denver Street to the south, and 30th Street to east.
4. That portion of Lot 1 in Square 5642 that is affected by the rezoning proposal is zoned R-5-A and measures approximately 222,956 square feet in land area. The remaining portion of Lot 1 is zoned C-3-A, measures approximately 132,023 square feet in land area, and is not subject to the rezoning proposal.
5. The R-5-A district permits matter-of-right single-family detached and semi-detached dwellings, and with the approval of the Board of Zoning Adjustment moderate density development of general residential uses including rowhouses, flats, and apartments to a maximum floor area ratio (FAR) of 0.9, a maximum lot occupancy of forty percent, and a maximum height of three-stories/forty feet.

6. The C-3-A District permits matter-of-right development for major retail and office uses to a maximum height of 65 feet, a maximum FAR of 4.0 for residential and 2.5 for other permitted uses, and a maximum lot occupancy of 75 percent for residential uses.
7. The District of Columbia Generalized Land Use Map of the Comprehensive Plan for the National Capital designates the subject site as being located in the moderate density commercial and the low density residential land use categories.
8. The applicant, through testimony presented at the public hearing and various submissions into the record of the case, indicated that the topography of Lot 1 is generally flat with ground levels ranging from 266 feet above sea level at its southernmost end to 289 square feet at its northern extremity. The site slopes downward approximately 19 feet from the crown to the street along the southern portion, mostly adjacent to Naylor Road and to Denver Street.
9. The existing brick structure is located on the C-3-A portion of Lot 1, was built in 1955 by the former user, Sears Roebuck & Co., and was used as a retail department store and for automotive accessory sales and services until 1991 when the building was closed.
10. The vacant structure is surrounded by an asphalt parking lot on the west, east and south. The parking lot on the south and east generally constitutes the subject site, which has been used continuously for commercial purposes, specifically as accessory parking for the former Sears store, since 1956.
11. The accessory parking lot is screened from the adjoining residential districts to the northeast, east and south by a brick wall and by public space that was landscaped and maintained by the former retail user. A concrete sidewalk, curb and gutter encircles the entire square. Five curbcuts provide access to the parking lot, two from Alabama Avenue, two from Denver Street, and one from 30th Street, S.E.
12. There are two parcels within the C-3-A zone which are used for residential purposes. These parcels total 3,753 square feet in area and have historically shared the square with commercial uses.
13. Alabama Avenue converges with Naylor and Good Hope Roads to form a low to moderate density neighborhood commercial shopping area to the north of the site. This commercial

area, known as the Skyland Shopping Center, serves several neighborhoods and is the second largest shopping area in Ward 7. It offers a variety of service and retail establishments, including two grocery stores, a drug store, fast food restaurants, banks, dry cleaning and clothing stores, gasoline service stations and a U.S. Post Office. A second gasoline service station is located west of the site, across Alabama Avenue.

14. Stanton Elementary School is located at Naylor Road and Alabama Avenue diagonally across from Square 5642. The Washington Nursing Facility, a senior citizens' residence, is located adjacent to garden-style, multi-family residences and open spaces across 25th Street to the west of the site. The D.C. Office of Aging's Wellness Center is being constructed at 30th Street and Alabama Avenue and the Hillcrest Park and Recreation Center and Martha Winston Elementary School are across 30th Street to the east and south of the site.
15. A community of detached, single-family dwellings is located along Alabama Avenue to the north and east of the site. South of the site, across Denver Street are semi-detached, row residences and flats. West of the site across Naylor Road are sites that are zoned for multi-family and institutional purposes. Most are unimproved except for a multi-family building on Naylor Road and four-unit, walk-up style apartments along 29th Street. No new housing has been constructed on the squares surrounding the site.
16. The Comprehensive Plan moderate or medium density commercial uses category is intended for shopping and service areas that provide a broad range of goods and services as predominant uses. The moderate density designation is consistent with a C-3-A zone district requested for the site, which contemplates similar uses and scale of development.
17. The applicant indicated that the site is also designated as part of a Multi-Neighborhood Center. Multi-neighborhood centers typically contain variety stores, drug stores, supermarkets and specialty shops as principal elements and are generally located at major intersections or along arterial streets, often at transportation focal points.
18. The applicant further indicated that the site is physically large enough to accommodate an anchored, multi-neighborhood, retail complex. In addition to its size, the site's location at the convergence of three major roads make it a prime candidate for the development of a multi-neighborhood retail center. The highest and best use for the site is a retail center that can meet multiple shopping needs in a comfortable,

safe and convenient environment. There are few comparable sites anywhere in the District of Columbia.

19. A small portion of the east end of Lot 1 is designated for low-density, residential uses on the Land Use Map. The Generalized Land Use Map is a "soft-edged" map. The low density residential designation can easily and appropriately be fulfilled directly across 30th Street and Alabama Avenue where R-1-B zoning and uses predominate.
20. The applicant indicated that the site is not appropriate for housing uses consistent with the R-5-A zone district mapped on the site. The housing stock available east of the river is sufficient for the foreseeable future. Even if there were demand for housing, the high cost of the land and demolition of the existing building, coupled with the high cost of the roads and necessary public utilities militate against the construction of new, affordable housing on this site. Moreover, the site is relatively long and narrow, which makes it well-suited for retail development and particularly difficult for residential development.
21. The applicant, through its traffic consultant, submitted a traffic analysis report which demonstrated that neither the rezoning nor the proposed development project will have an adverse impact on traffic on the streets and intersections in the vicinity of the site. The traffic expert concluded that the proposed site access system will adequately serve the site while maintaining a good level of service on the adjacent roadway system; that the 409 off-street parking spaces to be provided on the site are sufficient to serve the site and exceed the number of parking spaces required in the C-3-A zone district by the Zoning Regulations; and, that by transportation standards, the rezoning of the site is in accord with the Zoning Regulations, promotes the general public welfare and is not inconsistent with the Comprehensive Plan.
22. The District of Columbia Office of Planning (OP), by memorandum dated March 19, 1993 and by testimony presented at the public hearing, recommended that the application be approved. OP indicated that the proposal would probably be subject to the Large Tract Review Process, which would help guard against adverse neighborhood impact. OP stated, in part, the following:

"The proposed zoning would be appropriate for the neighborhood and the revitalization of the Alabama Avenue Development Zone area corridor would be stimulated by this proposal. Overall, the Office of Planning believes that the proposed map amendment

would not adversely impact neighboring properties nor impair the intent, purpose and integrity of the Zoning Regulations."

23. The District of Columbia Fire Department (DCFD), by memorandum dated March 1, 1993, indicated that the proposed development does not appear to create any major or undue hardships on the daily operations of the department, as long as the structure is protected with a sprinkler system.
24. The District of Columbia Metropolitan Police Department (MPD), by letter dated February 23, 1993, had no objections to the application.
25. The District of Columbia Department of Recreation and Parks (DRP), by memorandum dated March 3, 1993, indicated that the proposed development will not conflict with the program and mission of the Hillcrest Recreation Center.
26. The District of Columbia Department of Employment Services (DOES), by memorandum dated March 1, 1993, expressed a necessity for the applicant and DOES to enter into a First Source Employment Agreement to help ensure that city residents will receive the majority of the jobs created through the project.
27. The District of Columbia Development Zones Administration, through the testimony of its Administrator, supported the application, in part, because it is consistent with goals of the Anacostia Economic Development Zone.
28. Advisory Neighborhood Commission (ANC) 7B, by letters dated March 2 and 29, 1993 and by testimony presented at the public hearing, supported the proposal because of its needed service to the community, economic and aesthetic benefits, and deterring affect on crime at the subject site.
29. Several letters were received in support of the application including, but not limited to, Goldsten Brothers Realtors-Builders, Single-Member District Commissioners 7B05 and 7B02, President of the Naylor Dupont Seniors, Councilmember John Ray, Pastor of the East Washington Heights Baptist Church, President of the Hillcrest Heights Civic Association, and a representative of the Dupont Park Civic Association. In addition to some of the above-mentioned representatives, testimony in support of the application was received by a representative of Councilmember Kevin Chavous.

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30. Four area residents testified in opposition to the application because the proposed project would generated litter, traffic, and parking problems. One of the residents expressed regrets about the closing of Sears Department Store.
31. The Commission concurs with the position of the applicant, OP, ANC-7B, and others, and believes that rezoning the subject site is appropriate.
32. The Commission finds that the proposal is consistent with the Comprehensive Plan land use designation for the site, reflects a land use that is similar to the land use on the site since 1955, and will promote a service that is needed and valuable to the entire community.
33. The Commission finds that the proposed rezoning will not adversely impact the traffic in the area or at the intersections on Alabama Avenue, and that the subject site can accommodate substantially more off-street parking spaces than the Zoning Regulations require in a C-3-A District.
34. The Commission finds that it has no authority to grant or enforce the opponents' request for a guaranteed parking space in front of their residences, to affect persons who litter, or to affect persons who improperly use public alleys for thoroughfares.
35. The Commission further finds that new developments encompassing land areas in excess of three acres or total building areas in excess of 50,000 square feet are subject to the Large Tract Review process, codified at Chapter 15, Title 10 DCMR, which is designed to minimize any adverse environmental, traffic and neighborhood impacts of proposed development projects.
36. The Commission finds that the R-5-A zone district mapped on the site is inconsistent with the site's designation for moderate density commercial uses in the Comprehensive Plan and inappropriate in the context of the historical use of the site for commercial purposes.
37. The Commission further finds that it is unlikely that residential uses will be developed on the site in the foreseeable future.
38. The Commission finds that the requested C-3-A zone district is consistent with the Comprehensive Plan, specifically, the site's designation for moderate density commercial uses on the Generalized Land Use Map.

39. The proposed decision of the Zoning Commission was referred to the National Capital Planning Commission (NCPC) under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. NCPC, by report dated June 11, 1993, found that the proposed map amendment 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-3-A 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-3-A will promote orderly development in conformity with the entirety of the District of Columbia zone plan as stated in the Zoning Regulations and Map of the District of Columbia.
3. Rezoning to C-3-A is not inconsistent with the Comprehensive Plan for the National Capital.
4. Rezoning to C-3-A will not have an adverse impact on the surrounding neighborhood.
5. Rezoning to C-3-A is not inconsistent with the goals of the Anacostia Economic Development Zone.
6. In considering its decision on this case, the Zoning Commission has accorded ANC-7B the "great weight" consideration to which it is entitled.
7. Pursuant to D.C. Code Sec. 1-2531 (1987), Section 267 of D.C. Law 2-38, the Human Rights Act of 1977, the applicant is required to comply fully with the provisions of D.C. Code, Title 1, Chapter 25 (1987), and this order is conditioned upon full compliance with those provisions. The failure or refusal of applicant to comply with any provisions of D.C. Law 2-38, as amended, shall be a proper basis for the revocation of this order.

DECISION

In consideration of the Findings of Fact and Conclusions of Law set forth herein, the Zoning Commission for the District of Columbia hereby orders APPROVAL of a change of zoning from R-5-A to C-3-A for that portion of Lot 1 in Square 5642 that is presently zoned R-5-A.

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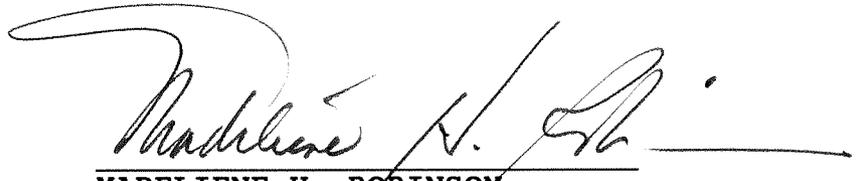
Vote of the Zoning Commission taken at the public meeting held on May 10, 1993: 4-0 (John G. Parsons, Maybelle Taylor Bennett, Tersh Boasberg and William L. Ensign, to approve C-3-A - Lloyd D. Smith, not present, not voting).

This order was adopted by the Zoning Commission at its public meeting held on July 12, 1993 by a vote of 3-0 (William L. Ensign, John G. Parsons and Maybelle Taylor Bennett, to adopt - Jerrily R. Kress and William B. Johnson, abstained).

In accordance with 11 DCMR 3028, this order is final and effective upon publication in the D.C. Register; that is, on

JUL 23 1993


MAYBELLE TAYLOR BENNETT
Chairperson
Zoning Commission


MADELIENE H. ROBINSON
Director
Office of Zoning

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