

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 750

Case No. 93-2Z

(Map Amendment - Residential-to-Residential Rezoning -
Zoning Consistency Project)

January 10, 1994

Pursuant to notice, a public hearing before the Zoning Commission for the District of Columbia was held on May 13, 1993, to consider a petition from the District of Columbia Office of Planning (OP) 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 hearing was conducted in accordance with the provisions of 11 DCMR 3021.

The petition or rezoning initiative, which was filed on January 28, 1993, requested the Commission to rezone certain areas in the city from various residential zone districts to other residential zone districts. The purpose of this rezoning initiative is to implement the provisions of the Comprehensive Plan for the National Capital that require that zoning not be inconsistent with the Comprehensive Plan.

By memorandum (preliminary report) dated January 28, 1993, OP targeted the following seven residential areas of the city for rezoning to other residential zone districts, as part of the Commission's Zoning Consistency Project:

1. Georgia Avenue (Buchanan, Decatur and Farragut Streets, N.W., and Piney Branch Road, N.W.)
R-4 to R-1-B;
2. Rhode Island Avenue (Monroe, Newton and 28th Streets, N.E.) R-5-A to R-1-B;
3. Eastern Avenue (Polk and Olive Streets, and Kenilworth Avenue, N.E.) R-5-A to R-2;
4. Benning Road (40th and 41st Streets, N.E., and Flint Place, N.E.) R-5-A to R-2;
5. Texas Avenue (Burns, Chaplin and D Streets, S.E.)
R-5-A to R-2;

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6. Benning and Hillside Roads (46th Street and Hanna Place, S.E.) R-5-A to R-2; and
7. Elvans, Sheridan and Stanton Roads (Gainsville and 15th Streets, S.E.) R-1-B to R-3.

At the public hearing on May 13, 1993, the Commission heard the testimony of OP, the testimony of about 13 residents of the area in support of the proposal and the testimony of three residents of the areas in opposition. The law firm of Linowes and Blocher represented one of the residents in opposition.

The OP memorandum (final report) dated April 30, 1993 and through testimony at the public hearing reaffirmed its earlier recommendations in the preliminary report and gave the background and sequence of the proposed Zoning Consistency Projects. The report gave boundary descriptions and provided an analysis of the characteristics of the various neighborhoods in the proposed rezoning areas. OP also provided the rationale to justify the suitability of the recommended rezoning for the various areas. Nevertheless, the report recommended a boundary revision for Rezoning Proposal No. 6 at Benning and Hillside Roads (46th Street and Hanna Place, S.E.). The following are excerpts from the OP testimony and report on the rezoning for the seven areas:

"The Mayor and the Zoning Commission are obligated under the Home Rule Act to eliminate inconsistencies between existing zoning and the Comprehensive Plan. OP is the Mayor's lead agency in this effort and has provided to the Zoning Commission a citywide package of recommended zone changes within the schedule established by the Comprehensive Plan Amendments Act of 1989 (D.C. Law 8-129). The rezonings have been organized into two major groups, to proceed on parallel tracks -- major projects and land use categories. On the first track are major area rezonings and citywide text amendments that involve complex planning issues and have a significant effect on development potential -- typically Specialized Planning Areas, Development Opportunity Areas, rezonings which involve multiple zone districts and text amendments with citywide effect.

On the second track, the remaining rezonings, which individually are less complex than the major projects, have been grouped by functional land use categories -- residential, commercial and industrial. These cases will proceed concurrently with the series of major projects on the first track, beginning with residential-to-residential rezonings (as recommended herein),

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commercially-related rezonings, and finally industrially-related rezonings. The recommended rezonings described in this report are, accordingly, phase one of the functional land use track."

OP recommended that Square 5359 not be rezoned as advertised, because a multi-phase housing and community service development has been planned for this property. The sponsors of this affordable housing and community development are the First Rock Baptist Church Foundation, Habitat for Humanity and the District of Columbia Government. The multi-phase housing and community service development has been planned based on the existing zoning. Based on the foregoing considerations, OP recommends that the rezoning from R-5-A to R-2 be limited to the area to the southeast of H Street, excluding Square 5359.

The R-1-B District permits matter of right development of single-family residential uses for detached dwellings with a minimum lot area of 5,000 square feet, a minimum lot width of 50 feet, a maximum lot occupancy of 40 percent, and a maximum height of three stories/40 feet.

The R-2 District permits matter of right development of single-family residential uses including detached, semi-detached, and row dwellings with a minimum lot area of 2,000 square feet, a minimum lot width of 20 feet, a maximum lot occupancy of 60 percent, and a maximum height of three stories/40 feet.

The R-3 District permits matter of right development of single-family residential uses including detached, semi-detached, and row dwellings with a minimum lot area of 2,000 square feet, a minimum lot width of 20 feet, a maximum lot occupancy of 60 percent, and a maximum height of three stories/40 feet.

The R-4 District permits matter of right development of residential uses including detached, semi-detached and row single-family dwellings and flats with a minimum lot area of 1,800 square feet, minimum lot width of 18 feet, a maximum lot occupancy of 60 percent, and maximum height limit of three stories/40 feet.

The R-5-A District permits matter of right development of single-family detached and semi-detached dwellings, and low-density development of row dwellings, flats and apartments with the approval of the Board of Zoning Adjustment. The maximum permitted floor area ratio (FAR) is 0.9, the permitted lot occupancy is 40 percent, and the permitted building height is three stories/40 feet.

The owner of 2900 Rhode Island Avenue, N.E. (Lot 17, Square 4311), through counsel, testified at the public hearing in opposition to

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the rezoning of her property. She argued that the rooming house on her property has been operated pursuant to a valid certificate of occupancy issued in the 1960s and has continued to meet all licensing requirements to date. The rooming house has 23 rooms with approximately nine bathrooms and is not suited for a single-family residence. In addition, the property fronts on Rhode Island Avenue, a major District of Columbia thoroughfare which has a car dealership and a medical clinic. She further stated that the rezoning will result in at least three major nonconforming properties.

At the close of the hearing session, the Commission left the record open for additional written statements to be included in the record of the case, and requested the OP to investigate and address the issues raised by the opposition during the hearing.

By letter dated June 7, 1993, Advisory Neighborhood Commission (ANC) 7A supported the proposed rezonings.

On June 14, 1993 at its regular public meeting, the Commission reviewed and discussed the OP summary abstract, dated June 4, 1993 and all written materials received before the close of the record, including a motion from the opposition to admit additional testimony out-of-time. The Commission granted the motion and accepted the testimony which charted and highlighted the square footage of all nonconforming uses in Squares 4310 and 4311.

The Commission also considered the OP summary/abstract which was a synopsis of the points made at the public hearing. The OP report confirmed the testimony which stated that under the proposed rezoning, three of the nine properties on Rhode Island Avenue would become nonconforming. The report added that the nonconforming uses of these properties could be subject to special exception applications to the Board of Zoning Adjustment (BZA) for changes to other nonconforming uses.

At the same meeting, the Commission considered all post-hearing submissions and heard clarifying comments from OP and the Office of Zoning (OZ) staff.

After considering and balancing all issues relative to the proposal, the Commission concluded that its decision to approve the amendments is not inconsistent with the intent of the Zoning Regulations and the Zoning Act, and is not inconsistent with the Comprehensive Plan for the National Capital.

The Commission concurs with the recommendation of the OP and took proposed action to approve the residential-to-residential rezonings as amended during the discussions.

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The notice of the Zoning Commission's proposed action to amend the Zoning Map of the District of Columbia was referred to the Zoning Administrator (ZA) for comments and 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 December 2, 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.

A notice of proposed rulemaking was published in the District of Columbia Register on December 3, 1993 (40 DCR 8390).

The Commission did not receive any comments as a result of the publication of the notice of proposed rulemaking from individuals, groups, government agencies or from those who participated in the hearing process.

On January 10, 1994 at its regular monthly meeting, the Zoning Commission reviewed and considered draft Z.C. Order No. 750 and the NCPC report. The Commission determined that all contentious issues raised during the public hearing have been balanced and that its proposed action to approve the rezoning initiative as amended, will implement the provisions of the Comprehensive Plan for the National Capital, which require that zoning not be inconsistent with the Comprehensive Plan.

In consideration of the reasons set forth herein, the Zoning Commission for the District of Columbia orders APPROVAL of amendments to the Zoning Map of the District of Columbia. The specific amendments to the Zoning Map are as follows:

1. Georgia Avenue Area (Buchanan, Decatur and Farragut Streets, N.W., and Piney Branch Road, N.W.) R-4 to R-1-B;

Rezone all of the existing R-4 zoned properties to R-1-B, in the area that includes, but is not limited to, Square Nos. 2708, 2709, 2807, 2808, 2809, 2920, 2921, 2922, 2923, 2924, 2925, and 2926, which are bounded generally by Georgia Avenue, Piney Branch Road, and Buchanan, 13th, Decatur, Emerson, 14th, and Farragut Streets, N.W.

2. Rhode Island Avenue Area (Monroe, Newton and 28th Streets, N.E.) R-5-A to R-1-B;

Rezone all existing R-5-A zoned properties to R-1-B in the area that includes, but is not limited to, Square Nos. 4310 and 4311, which are in the vicinity of 28th, Newton and Monroe Streets, N.E. and located on the north

and south sides of Rhode Island Avenue, N.E.

3. Eastern Avenue Area (Polk and Olive Streets, and Kenilworth Avenue, N.E.) R-5-A to R-2;

Rezone all existing R-5-A zoned properties to R-2 in the area that includes, but is not limited to, Square Nos. 5165, 5166, 5167 and 5168, which are bounded generally by Eastern and Kenilworth Avenues, and Polk and Olive Streets, N.E.

4. Benning Road Area (40th and 41st Streets, and Flint Place, N.E.) R-5-A to R-2;

Rezone all existing R-5-A zoned properties to R-2 in Square 5083, which includes, but is not limited to, the 4000 block of Benning Road, N.E., and the 4000 block of Clay Place, N.E.

5. Texas Avenue Area (Burns, Chaplin and D Streets, S.E.) R-5-A to R-2;

Rezone all existing R-5-A zoned properties to R-2 in Square Nos. E-5398 (except Lot 804), and 5398 which are bounded generally by Texas Avenue, Burns, Chaplin and D Streets, S.E.

6. Benning and Hillside Roads Area (46th Street and Hanna Place, S.E.) R-5-A to R-2; and

Rezone all existing R-5-A zoned properties to R-2 in Square No. 5340 (except Lot 801) and E-5340, which are bounded generally by H Street, Southern Avenue, and Benning Road, S.E.

7. Elvans and Stanton Roads Area (Gainesville and 15th Streets, S.E.) R-1-B to R-3.

Rezone all existing R-1-B zoned properties to R-3 in the area that includes, but is not limited to, Square Nos. 5829 and 5877, which are bounded generally by Elvans, Stanton and Morris Roads, 15th Place, and Gainesville and 16th Streets, S.E.

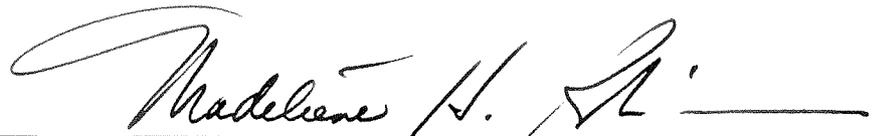
Vote of the Zoning Commission at the regular monthly meeting on June 14, 1993: 3-0 (John G. Parsons, William L. Ensign and Maybelle Taylor Bennett, to approve - Tersh Boasberg not voting, not having participated in the case and Lloyd D. Smith, not present, not voting).

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This order was adopted by the Zoning Commission at its regular monthly meeting on January 10, 1994, 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 the provisions of 11 DCMR 3028, this order is final and effective upon publication in the D.C. Register; that is on _____.


MAYBELLE TAYLOR BENNETT
Chairperson
Zoning Commission


MADELIENE H. ROBINSON
Director
Office of Zoning

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