

# Government of the District of Columbia

## ZONING COMMISSION



### ZONING COMMISSION ORDER NO. 763

Case No. 93-16

(Map Amendment @ Minnesota Avenue & Benning Road)

September 12, 1994

Pursuant to notice, the Zoning Commission for the District of Columbia held a public hearing on April 18, 1994. At that hearing session, the Zoning Commission considered a proposal of 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 (1994). The public hearing was conducted in accordance with the provisions of 11 DCMR 3021.

By memorandum dated December 3, 1993 (preliminary report to the Zoning Commission), OP proposed to rezone five (5) geographic areas in and around the vicinity of the Minnesota Avenue Metrorail Station and the intersection of Benning Road and Minnesota Avenue, N.E.

OP indicated that the purpose of this rezoning initiative is to comply with those provisions of the Comprehensive Plan for the National Capital that require that zoning not be inconsistent with the Plan. OP believes that its rezoning proposal will eliminate inconsistencies between the existing zoning in the subject areas and the District Element of the Comprehensive Plan.

That same preliminary report included an OP land use and rezoning study for the Minnesota Avenue Metrorail Study Area dated October 1993. That study, in part, stated the following:

"... The Mayor and the Zoning Commission are obligated under the Home Rule Act to eliminate such inconsistencies. OP is the Mayor's lead agency in this effort and has provided the Zoning Commission a package of recommended citywide zone changes within the schedule established by the Comprehensive Plan Amendments Act of 1989 (D.C. Law 8-129)....

This evaluation of zoning and land use within the Minnesota Avenue Metrorail Station area will help establish the guidelines for appropriate development as one of the keys to continued neighborhood revitalization. The timing of this study is in part a response to a request from the Marshall Heights Community Development Organization for rezonings that are consistent with the Comprehensive Plan to be enacted, so

that the ongoing and thus far highly successful, revitalization of commercial and residential areas in Minnesota-Benning can continue without zoning impediments."

On December 13, 1993 at its regular monthly meeting, the Zoning Commission authorized a public hearing for the OP proposal to rezone five (5) subareas in the Minnesota Avenue Metrorail Station Study Area.

The OP proposal, as contained in the notice of public hearing, included the following rezoning initiatives:

- Subarea 8 - Change from C-2-A to C-2-B or R-5-A all of Square 5058, which is located at and bounded on the southwest by Hayes Street, on the northeast by Jay Street, on the northwest by Kenilworth Terrace, and on the southeast by Kenilworth Avenue, N.E.
- Subarea 9 - Change from C-M-1 to C-2-A Lot 1 in Square 5003, which is located at and bounded on the south by a public alley, on the north by Benning Road, on the east by 34th Street, and on the west by Anacostia Avenue, N.E.
- Subarea 12 - Change from C-M-1 to C-3-A all of Squares 5052 and 5053, which are located at and bounded on the northwest by the railroad right-of-way, on the south by Benning Road, on the east and southeast by Minnesota Avenue, and on the north by the westerly extension of Gault Place, N.E.
- Subarea 13A - Change from C-M-1 to C-1 Lots 86, 87, 133, and 808 in Square 5077, which are located at and bounded on the north by Hayes Street, on the south by Gault Place, on the west by Minnesota Avenue, and on the east by a public alley that is parallel to and immediately east of Minnesota Avenue, N.E.
- Subarea 13B - Change from C-1 to C-3-A that portion of the Woodson Junior High School site, which is located in the C-1 zone district portion of Square 5078 and bounded on the north by privately owned properties that are south of Grant Street, on the west by Minnesota Avenue, on the east by an existing R-5-A zone district, and on the south by an existing C-3-A zone district.

Z.C. ORDER NO. 763  
CASE NO. 93-16  
PAGE NO. 3

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 (BZA), 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 40 percent, and a maximum height of three-stories/40 feet.

The C-1 District permits matter of right low density development including office, retail, service, and residential uses to a maximum height of 40 feet/three stories, a maximum FAR of 1.0 and a maximum lot occupancy of 60 percent for residential uses.

The C-2-A District permits matter of right low/moderate density development, including office, retail, service, housing, and mixed uses to a maximum height of 65 feet, a maximum FAR of 2.5 for residential and 1.5 for other permitted uses, and a maximum lot occupancy of 60 percent for residential uses.

The C-2-B District permits matter of right moderate density development, including office, retail, service, housing, and mixed uses to a maximum height of 65 feet, a maximum FAR of 3.5 for residential and 1.5 for other permitted uses, and a maximum lot occupancy of 80 percent for residential uses.

The C-3-A District permits matter of right moderate/medium density 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.

The C-M-1 District permits development of low bulk commercial and light manufacturing uses to a maximum FAR of 3.0, and a maximum height of three stories/40 feet, with new residential uses prohibited.

The Zoning Commission indicated that it would also receive testimony and written submissions about, and would consider adoption of other alternative proposals that were reasonably related to the scope of the proposed amendments that were set forth in the notice of public hearing.

OP, by memorandum dated April 7, 1994 (final report to the Zoning Commission) and by testimony presented at the public hearing, recommended rezoning Subareas 9, 12, 13A and 13B, as advertised in the notice of public hearing. OP recommended, however, rezoning Subarea 8 to R-5-A instead of C-2-B. OP indicated that rezoning Subareas 8 to C-2-B was of some concern to several participants at a meeting it held with community representatives in November 1993.

Z.C. ORDER NO. 763  
CASE NO. 93-16  
PAGE NO. 4

OP noted that the Comprehensive Plan provides support for either residential or mixed-use zoning in Subarea 8. OP believes that its proposal is consistent with the Comprehensive Plan.

No other government agencies participated in or submitted reports into the record of the case.

Single Member District Commissioner 7D-01, by testimony presented at the public hearing, supported the rezoning of Subarea 9 from C-M-1 to C-2-A.

Counsel for the owner of property in Square 5058, by statement dated April 18, 1994 and by testimony presented at the public hearing, supported rezoning Subarea 8 from C-2-A to C-2-B. He indicated that the owner intended to develop the site with a neighborhood retail center consisting of a grocery store, a dry cleaner, a shoe repair facility and other neighborhood related uses. Counsel for the owner further indicated that C-2-B rezoning would support the Generalized Land Use Map of the Comprehensive Plan designation of medium density residential/moderate density commercial land use designation for the area.

A representative of the River Terrace Community Organization and six (6) other persons from the River Terrace community, by testimony presented at the public hearing, supported rezoning Subarea 9 from C-M-1 to C-2-A. They indicated that the C-2-A rezoning would help to advance the revitalization of the River Terrace community.

Counsel for the owner of property in Square 5003, by testimony presented at the public hearing, opposed the rezoning of Subarea 9 from C-M-1 to C-2-A. He indicated that his client owned a taxicab and an insurance business, both of which would be adversely affected by the proposed rezoning. He requested that the record be left open long enough for his client to comment in writing.

A representative of the Minnesota Avenue Businessmen's Association (MABA), by letter dated March 25, 1994 and by testimony presented at the public hearing, opposed the rezoning of Subarea 12 (Squares 5052 and 5053) from C-M-1 to C-3-A. The representative indicated that crime, misinformation, and rumors of development may have adversely affected many existing businesses and may have contributed to destabilizing the business community in the area. He expressed his support for the retention of the industrial (C-M-1) zoning because of its tremendous potential to generate jobs and tax revenue to the city. He also indicated that the residential community in the area can help to revitalize the area by improving and maintaining their residential properties.

Z.C. ORDER NO. 763  
CASE NO. 93-16  
PAGE NO. 5

The pastor of St. James Baptist Church, by testimony presented at the public hearing, opposed the rezoning of Subarea 12 from C-M-1 to C-3-A because he believed the rezoning would adversely affect the ability of his church to establish a theological school, a senior citizens' program, a day care program, and a feeding program for the poor.

A resident at 4046 Minnesota Avenue did not testify in support of nor in opposition to the rezoning of Subarea 12. He inquired about whether the rezoning would increase property taxes and expressed concern that developers might purchase some adjacent properties and force him and others to move.

By post-hearing submission dated May 23, 1994, MABA reiterated its opposition to the rezoning proposal for Subarea 12 (Squares 5052 and 5053) because it would diminish the best economic development potential of the affected property. MABA opposed any residential development of the subject area because of safety and health risks, given its proximity to existing high tension electrical lines, the railroad, and high volume vehicular traffic on Minnesota Avenue and Benning Road. MABA also reiterated its request for information from the city government about zoning and planning documentation relative to the rezoning proposal.

By post-hearing submission dated June 6, 1994, counsel for the owner of property in Subarea 9 (Square 5003), reiterated its opposition to the proposed rezoning from C-M-1 to C-2-A. The letter indicated that retention of the C-M-1 would provide the following:

- a. A buffer between the Potomac Electric Power Company (PEPCO) facility on the opposite side of Benning Road from the subject site and the River Terrace residential community to the south of the subject site;
- b. A lower development height of forty (40), as opposed to a height of sixty-five (65) feet as permitted by C-2-A rezoning; and
- c. A better use of property that generates job benefits to the community and tax benefits to the city.

On June 13, 1994 at its regular monthly meeting, the Zoning Commission considered all of the post-hearing submissions and requested OZ to respond to MABA about its request for information from various city government agencies. By letter dated June 22, 1994, OZ responded to MABA about its request for information.

The Commission concurs, in part, with the rationale and recommendation of OP, and the recommendation of others who supported the proposal. The Commission believes the proposal, as modified, is appropriate.

The Commission believes that after balancing all of the issues set forth in the case, its decision is fair and reasonable, is in the best interest of the District of Columbia, is consistent with the intent and purpose of the Zoning Regulations and Zoning Act, and is not inconsistent with the Comprehensive Plan for the National Capital.

In regards to Subarea 8, the Commission believes that C-2-B rezoning supports the intent of the Comprehensive Plan as well as R-5-A. However, the Commission is mindful of the lack of substantial neighborhood retail and service uses west of the railroad right-of-way, is encouraged by the testimony of a property owner in Square 5058 proposing to develop various retail and services uses in that square, and believes that C-2-B rezoning will permit the level of retail and service development that is needed for that location.

In regards to Subarea 9, the Commission believes that C-2-A rezoning is supported by the Comprehensive Plan, will permit the existing commercial uses to continue as conforming uses, and, in conjunction with the River Terrace Elementary School site, will serve as a buffer between the PEPCO facility and the River Terrace residential community.

In regards to Subarea 12, the Commission is not persuaded by the position of the MABA. The Commission believes that rezoning from C-M-1 to C-3-A would provide for continuous job opportunities and tax revenues to the city; as well as encourage neighborhood stability. The Commission also notes that the uses that were envisioned by the St. James Baptist Church are permitted uses in the C-3-A District and would not adversely affect the development objectives of the church. As to the concerns about whether real property taxes would increase because of the proposed rezoning, the Commission is uncertain. It is the Commission's understanding that the D.C. Department of Finance and Revenue may use zoning as one of several criteria to determine the value of real property for assessment purposes. The Commission notes, however, that the density of the C-3-A District represents a moderate increase to that of the C-M-1 District. The Commission further notes that, in general, when a property owner experiences an increase in zoning density which may affect an increase in property taxes, that owner will also benefit from a higher market value when the property is sold.

Z.C. ORDER NO. 763  
CASE NO. 93-16  
PAGE NO. 7

A notice of proposed rulemaking was published in the D.C. Register on July 8, 1994 (41 DCR 4581). As a result of the publication of that notice, no comments were received.

The proposed action of the Zoning Commission to amend the Zoning Map 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 July 29, 1994, found that the proposed amendments to the Zoning Map 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 could not give "great weight" consideration to ANC 7D or others because the Zoning Commission did not receive any comments in writing expressing the issues and concerns of the affected ANCs.

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

- Subarea 8** Change from C-2-A to C-2-B all of Square 5058, which is located at and bounded on the southwest by Hayes Street, on the northeast by Jay Street, on the northwest by Kenilworth Terrace, and on the southeast by Kenilworth Avenue, N.E.
- Subarea 9** Change from C-M-1 to C-2-A Lot 1 in Square 5003, which is located at and bounded on the south by a public alley, on the north by Benning Road, on the east by 34th Street, and on the west by Anacostia Avenue, N.E.
- Subarea 12** Change from C-M-1 to C-3-A all of Squares 5052 and 5053, which are located at and bounded on the northwest by the railroad right-of-way, on the south by Benning Road, on the east and southeast by Minnesota Avenue, and on the north by the westerly extension of Gault Place, N.E.
- Subarea 13A** Change from C-M-1 to C-1 Lots 86, 87, 133, and 808 in Square 5077, which are located at and bounded on the north by Hayes Street, on the south by Gault Place, on the west by Minnesota Avenue, and on the east by a public alley that is parallel to and immediately east of Minnesota Avenue, and that connects Hayes Street and Gault Place, N.E.

Z.C. ORDER NO. 763  
CASE NO. 93-16  
PAGE NO. 8

Subarea 13B Change from C-1 to C-3-A that portion of the Woodson Junior High School site, which is located in the C-1 zone district portion of Square 5078 and bounded on the north by privately owned properties that are south of Grant Street, on the west by Minnesota Avenue, on the east by an existing R-5-A zone district, and on the south by an existing C-3-A zone district.

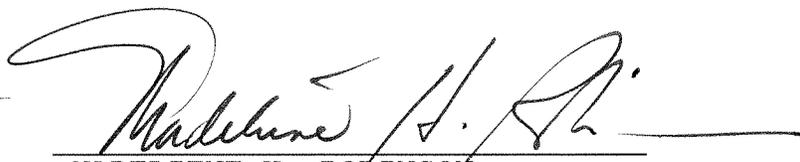
Vote of the Zoning Commission taken at the regular monthly meeting on June 13, 1994: 5-0 (William B. Johnson, John G. Parsons, William L. Ensign, and Maybelle Taylor Bennett, to approve, and Jerrily R. Kress, to approve by absentee vote).

This order was adopted as a final action by the Zoning Commission at its regular monthly meeting on September 12, 1994 by a vote of 5-0 (Jerrily R. Kress, William B. Johnson, William L. Ensign, and Maybelle Taylor Bennett, to adopt as amended, and John G. Parsons to adopt by absentee vote).

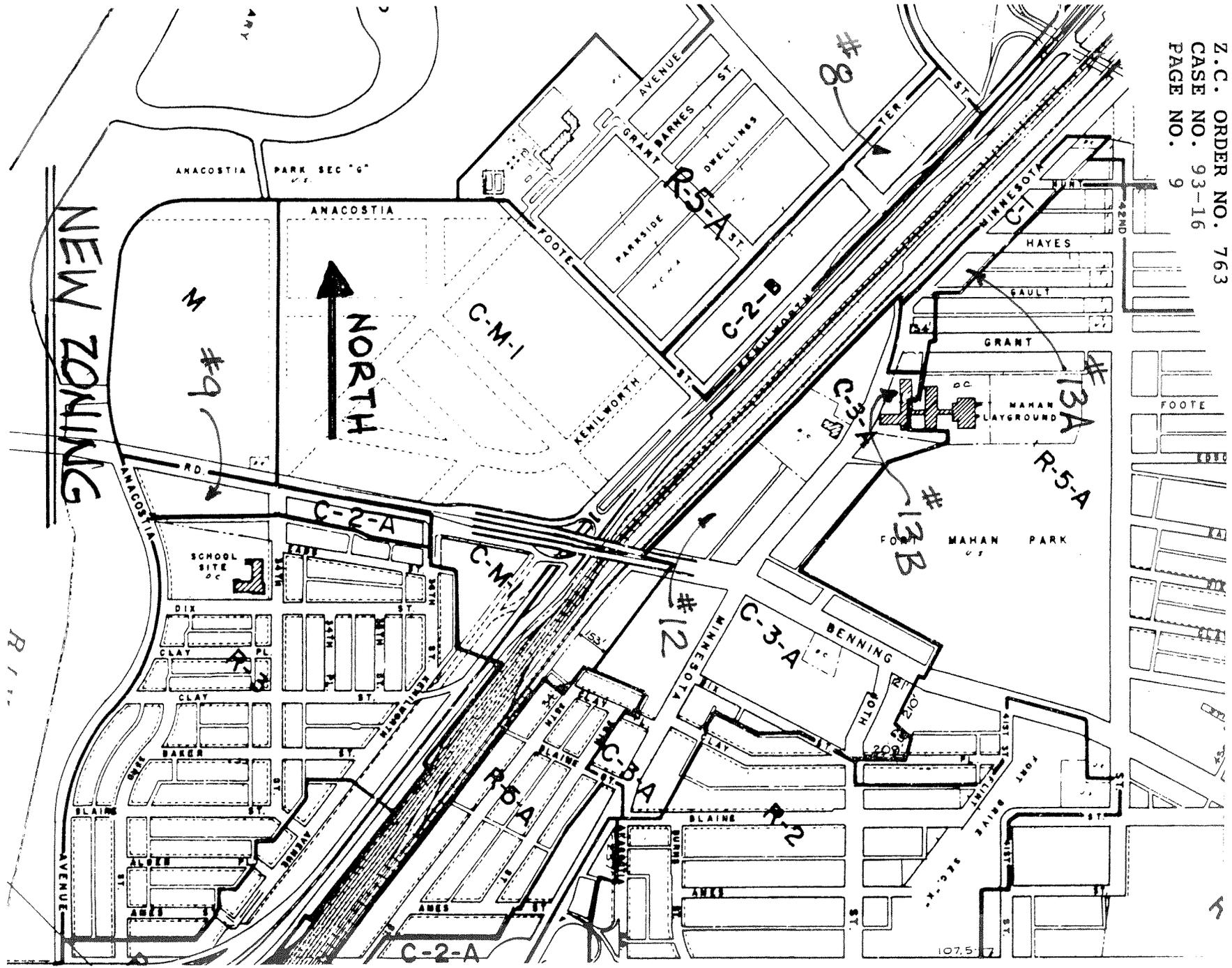
In accordance with 11 DCMR 3028.8, this order is final and effective upon publication in the D.C. Register; that is, on

OCT 14 1994

  
MAYBELLE TAYLOR BENNETT  
Chairperson  
Zoning Commission

  
MADELIENE H. ROBINSON  
Director  
Office of Zoning

zco763/CBT/LJP



NEW ZONING

NORTH

#9

#8

#12

#13A

#13B

R-1

107.5