

Government of the District of Columbia
ZONING COMMISSION



ZONING COMMISSION ORDER NO. 774
Case No. 94-11Z

(Map Amendment from Commercial-to-Commercial or Residential--
Zoning Consistency Project III)

April 20, 1995

The Zoning Commission for the District of Columbia initiated this case in response to 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. Amendments to the Zoning Map are authorized pursuant to the Zoning Act [Act of June 20, 1938, 52 Stat. 797, as amended, D.C. Code Ann. Section 5-413 (1994)].

The OP, by preliminary report to the Zoning Commission dated June 3, 1994, proposed to rezone certain areas of the city from various commercial zone districts to other commercial or residential zone districts. The proposal is the third of a series of city-wide rezoning initiatives presented to implement the provisions of the Comprehensive Plan for the National Capital which require that zoning not be inconsistent with the Comprehensive Plan. The first two city-wide rezonings are contained in Z. C. Case No. 93-2Z and Z. C. Case No. 93-10Z.

On June 13, 1994 at its regular monthly meeting, the Zoning Commission authorized the scheduling of a public hearing on Case No. 94-11Z.

The specific areas of the city that were targeted for rezoning are as follows:

1. 18th and D Streets, N.E.

Rezone the existing C-2-A zoned properties at the northeast corner of 18th and D Streets from C-2-A to C-1 including, but not limited to, Lots 804, 807, 809, 810, 812 and 813 in Square 4547.

2. Montello Avenue and Queen Street, N.E.

Rezone the existing C-2-A zoned properties on the east side of Montello Avenue between Queen Street and Holbrook Terrace from C-2-A to C-1 including, but not limited to Lots 164, 170, 208, 209, 803 and 820-822 in Square 4057.

3. 11th Street between G and K Streets, S.E.

Rezone the existing C-2-A zoned properties on both sides of 11th Street between G and I Streets from C-2-A to R-4 in Squares 974 and 995.

Rezone the existing C-2-A zoned properties in Square 996, which is bounded by 11th, 12th, K, and I Streets, from C-2-A to R-4, except that Lots 34, 808 and 809 shall remain C-2-A.

4. Georgia Avenue between Park Road & Shepherd Street, N.W.

Rezone the existing C-2-A zoned properties on both sides of the Georgia Avenue corridor between Park Road and Shepherd Street from C-2-A to C-3-A including, but not limited to, Squares 2895, 2897, 2898, 2900, 2905, 2906, 3027-3033, and 3038.

5. Georgia Avenue between Madison and Peabody Streets, N.W.

Rezone the existing C-2-A zoned properties on both sides of the Georgia Avenue corridor between Madison and Peabody Streets from C-2-A to C-3-A including, but not limited to, Squares 2935, 2937, 2938, 2986 and 2988.

6. Riggs Road and South Dakota Avenue, N.E.

Rezone the existing C-1 zoned properties at the intersection of Riggs Road and South Dakota Avenue between 3rd Street, Chillum Place, and Kennedy Street from C-1 to C-2-A including, but not limited to Squares 3748 and 3760, and parcel 125/30.

7. Rhode Island Avenue between 17th and 24th Streets, N.E.

Rezone the existing C-1 zoned properties on both sides of the Rhode Island Avenue corridor between 17th and 24th Streets from C-1 to C-2-A including, but not limited to, Squares 4133, 4134, 4137, 4208, S-4208, 4209, 4210, 4217, N4217, 4219 and 4248-4250.

8. Benning Road and East Capitol Street, N.E. and S.E.

Rezone the existing C-1 zoned properties on both sides of the Benning Road Corridor between 44th Street, N.E. and A Street, S.E. from C-1 to C-3-A including, but not limited to, Squares 5085, 5138, 5139, 5346 and 5350.

9. Benning Road and F Street, S.E.

Rezone the existing C-1 zoned properties on the west side of Benning Road between 46th and G Street, from C-1 to C-2-A including, but not limited to, Lot 802 in Square 5357 and Lot 803 in Square 5358.

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

Pursuant to notice, a public hearing was held by the Zoning Commission on October 20, 1994, to consider the proposed amendments to the Zoning Map. The hearing session was conducted in accordance with the provisions of 11 DCMR 3021.

At the hearing session, the Commission heard testimony from the Office of Planning (OP), two Advisory Neighborhood Commissions, the Brightwood Self-Empowerment Committee, the Rhode Island Merchants Association and five witnesses with interests in the areas proposed for rezoning.

The Office of Planning, by memorandum dated October 6, 1994 and by testimony at the public hearing, recommended that the Commission approve the rezoning initiatives as advertised in the notice of public hearing. OP provided the basis and rationale for the rezoning proposals, and gave information regarding consistency with the Comprehensive Plan for the National Capital. OP provided comments on each of the nine rezoning initiatives as follows:

Rezoning Initiative No. 1-- 18th and D Street, N.E., and Initiative No. 2--Montello Avenue and Queen Street, N.E.

OP recommended rezoning these areas from C-2-A to C-1. OP indicated that these areas are small commercial pockets serving the immediate neighborhoods, and that the land use designation in the Comprehensive Plan is moderate density residential, which reinforces the small, low-intensity nature of the commercial areas.

The existing commercial structures are low-scale and provide convenience services. The current C-2-A zoning allows too wide a range of business types for these small commercial clusters. The areas are perfectly suited to the C-1 zone and its purpose which is to provide

convenience goods and services for the immediately surrounding neighborhood.

Rezoning Initiative No. 3--11th Street between G and K Streets, S.E.

The recommended rezoning for this area was from C-2-A to R-4, in part. Part of the commercial strip would remain C-2-A and part was recommended for rezoning to R-4. OP indicated that this short commercial strip includes a mixture of residential and commercial uses. Several of the street frontages are entirely or almost entirely residential and should be zoned R-4. The buildings were designed and constructed as residential buildings. R-4 zoning will retain the housing stock, prevent commercial conversions, and direct business development to other commercial zones. OP recommended retaining C-2-A zoning in the area south of I Street where the existing development is commercial and the building types are commercial.

The generalized land use map designates the area moderate density residential which supports protection of existing dwellings with residential zoning, while maintaining a small pocket of C-2-A zoning.

Rezoning Initiative No. 4--Georgia Avenue between Park Road and Shepherd Street, N.W.

The rezoning recommendation for this area was from C-2-A to C-3-A. This area contains the Georgia Avenue/Petworth Metrorail Station site which is currently under construction, and it is an intersection of major arterial streets. The Comprehensive Plan applies three significant land use designations to this area--development opportunity area, multi-neighborhood commercial center, and mixed use moderate density commercial/medium density residential. The C-3-A zone district is a mid-rise zone which is a reasonable step-up in scale from the surroundings, and allows a 2.5 floor area ratio (FAR) of commercial which allows for intensification of job opportunities and business development.

Rezoning Initiative No. 5--Georgia Avenue between Madison and Peabody Streets, N.W.

OP recommended rezoning this area from C-2-A to C-3-A. This area is an intersection of major arterial streets, and the Comprehensive Plan applies three significant land

use designations--development opportunity area, multi-neighborhood commercial center, and medium density commercial. Commercial land use is emphasized for this area.

Rezoning Initiative No.6--Riggs Road and South Dakota Avenue, N.E.

The recommended rezoning for this area was from C-1 to C-2-A. The Comprehensive Plan land use designation is for multi-neighborhood center which requires a wider range of permitted uses than the convenience uses permitted in the C-1 zone. The greater range of business types, plus a moderate amount of additional height and density, provide a greater chance for revitalization of an existing shopping center. The scale is compatible with surrounding neighborhoods, and the potential for intensified development may enhance the possibility of using fully the available underutilized land.

Rezoning Initiative No. 7--Rhode Island Avenue between 17th and 24th Streets, N.E.

OP recommended rezoning this area from C-1 to C-2-A. All of Rhode Island Avenue from 4th Street to the District line is zoned C-2-A except this one segment in the middle. The existing development pattern is one to three-story commercial buildings. The Comprehensive Plan designations of low density commercial and a multi-neighborhood center suggest C-2-A and imply a greater variety and concentration of businesses than the convenience retail and services allowed by C-1 zoning.

Rezoning Initiative No. 8--Benning Road and East Capitol Street, N.E. and S.E.

This area is the Benning Road Metrorail Station site in northeast, Ward 7. OP recommended rezoning the area from C-1 to C-3-A. The major intersection of Benning Road and East Capitol Street, N.E. accommodates one of the largest concentrations of commercial activity in Ward 7. The metrorail station greatly enhances business prospects for the area. The Comprehensive Plan designations of multi-neighborhood center and moderate density commercial suggest a wide range and concentration of businesses well beyond the limited range allowed by the current C-1 zone.

Rezoning Initiative No. 9--Benning Road and F Street, S.E.

OP recommended rezoning this area from C-1 to C-2-A. The Comprehensive Plan land use designations of low density commercial and development opportunity area taken together suggest C-2-A.

A representative of Advisory Neighborhood Commission (ANC) 4B provided testimony in opposition to Rezoning Initiative No. 6 at Riggs Road and South Dakota Avenue and requested that the record remain open for the ANC to review the case and submit its formal report. The representative indicated that there are concerns about the height limit of 65 feet for the C-2-A zone district. She was told that the 65-foot designation for C-2-A in the public hearing notice is incorrect and should have shown a height limit of 50 feet. Additionally, the ANC representative indicated that the community is interested in the neighborhood remaining as it is, with community-serving retail and services. She stated that any built-up area should be the South Dakota Avenue corridor that comes around to Chillum Place so the stores in that area could be improved.

The single-member district representative from ANC 1A-08 provided testimony in opposition to Rezoning Initiative No. 4 at Georgia Avenue between Park Road and Shepherd Street, N.W. The only concern regarding the rezoning from C-2-A to C-3-A was that a community-based residential facility (CBRF) would be allowed to have an unlimited number of residents. She indicated that the community felt that the character of the neighborhood would be threatened if CBRFs are not specifically controlled. The representative requested the opportunity to speak with other commissioners and submit a written report.

A representative for the Brightwood Self-Empowerment Committee testified in support of the proposed amendment at Georgia Avenue between Madison and Peabody Streets, N.W. She indicated that the information about the proposal has recently gotten to them and requested that the record remain open for 30 days so the business community and property owners could be informed, and so ANCs 4B, 4A, and civic associations can meet and discuss the proposal. She indicated that the Committee recognizes that development is needed in the area, and that the rezoning would encourage development. However, further testimony indicated concern about CBRFs locating in the area, particularly those based out-of-state.

The president of the Rhode Island Merchants Association had questions about the use of the term "housing" in the C-2-A zone and the use of "residential" in the C-1 zone. He wondered whether "housing" meant there would be more residential established on Rhode Island Avenue. It was explained that either zone district

will allow residential and commercial. In either zone, the commercial potential can be built in one to three stories, and the remaining floors above will be residential. A building in a C-2-A zone would be taller than a building in the C-1 zone.

The Commission heard testimony from five individuals--two opposed to and one in support of Rezoning Initiative No. 7, one opposed to Rezoning Initiative No. 4, and one opposed to Rezoning Initiative No. 5. Their comments included but was not limited to their beliefs that the existing zoning is appropriate and they generally do not want additional commercial development and increased property taxes. The one person in support testified that the Rhode Island Avenue area would benefit from the proposed rezoning. It would rejuvenate the area and attract persons and businesses to the area.

The record of this case contains documents from organizations and individuals both in support of and in opposition to specific rezoning proposed for their areas. Prior to the closing of the record in this case, the Commission received a supplemental report dated November 17, 1994, from the Office of Planning. This report provided additional information about one issue raised in testimony regarding Rezoning Initiative No. 7. The testimony suggested that the C-1 zoning should be retained because the zone boundary between C-1 and abutting residential zones, primarily R-1-B, often split squares. A secondary comment indicated that the problem was exacerbated by the existence of a number of triangular squares. OP noted that the presence of split-zoned and triangular squares occurs equally in the C-2-A and C-1 segments of Rhode Island Avenue being considered in this proposal. OP indicated that this situation occurs throughout the city along virtually all diagonal streets with commercial zoning and many grid streets as well. C-2-A permits a wider range of business uses than C-1, but is still a neighborhood commercial zone that is mapped widely along corridors in the city abutted by low and moderate density residential zones and uses on either side.

The Zoning Commission did not receive any formal, written correspondence or report from any Advisory Neighborhood Commissions to which it could grant "great weight." The record does contain correspondence dated November 30, 1994, from the single member district representative for ANC 4B-09, indicating that members of the SMD met and voted to oppose the rezoning at South Dakota Avenue and Riggs Road, N.E.

The Zoning Commission concurs with the Office of Planning and others supporting the Rezoning Initiatives, and believes that the rezoning of the targeted areas, as proposed, is appropriate.

The Zoning Commission believes that after weighing and balancing all issues associated with all nine of the proposed rezoning initiatives that the economic viability of the city and the targeted areas is better served by the rezonings, as proposed. The Commission notes that with any rezoning, new uses will be allowed as a matter of right, and acknowledges the concerns of those citizens regarding the location of CBRFs. The Commission notes that the Department of Consumer and Regulatory Affairs is the appropriate agency for enforcement of the regulations affecting CBRFs when they are allowed as a matter of right in various zone districts.

The Zoning Commission further believes that its decision in this case is in the best interest of the District of Columbia, is consistent with the intent and purpose of the Zoning Regulations and the Zoning Act, and is not inconsistent with the Comprehensive Plan for the National Capital.

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 February 2, 1995, found that the proposed amendments 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 did not accord "great weight" consideration to any Advisory Neighborhood Commission in this case, because no ANC provided a written report with concerns and issues for the Commission to consider.

A notice of proposed rulemaking was referred to the Zoning Administrator, OP, and the Department of Housing and Community Development (DHCD), and was published in the D.C. Register on January 27, 1995 (42 DCR 627) for review and comment. The Commission received no comments as a result of the referral and the publication of the rulemaking.

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

1. 18th and D Streets, N.E.

Rezone the existing C-2-A zoned properties at the northeast corner of 18th and D Streets, N.E. from C-2-A to C-1, including but not limited to Lots 804, 807, 809, 810, 812 and 813 in Square 4547.

2. **Montello Avenue and Queen Street, N.E.**

Rezone the existing C-2-A zoned properties on the east side of Montello Avenue between Queen Street and Holbrook Terrace, N.E. from C-2-A to C-1, including but not limited to Lots 164, 170, 208, 209, 803 and 820 through 822 in Square 4057.

3. **11th Street between G and K Streets, S.E.**

Rezone the existing C-2-A zoned properties on both sides of 11th Street between G and I Streets, S.E. from C-2-A to R-4 in Squares 974 and 995.

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4. **Georgia Ave. between Park Road and Shepherd Street, N.W.**

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5. **Georgia Ave. between Madison and Peabody Streets, N.W.**

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7. **Rhode Island Ave. between 17th and 24th Streets, N.E.**

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9. Benning Road and F Street, S.E.

Rezone the existing C-1 zoned properties on the west side of Benning Road between 46th and G Streets, S.E. from C-1 to C-2-A, including but not limited to Lot 802 in Square 5357, and Lot 803 in Square 5358.

The Zoning Commission voted on the rezoning initiatives separately at its regular monthly meeting on December 12, 1994 as follows:

1. 18th and D Streets, N.E.: 3-0 (Jerrily R. Kress, John G. Parsons and Maybelle Taylor Bennett, to approve, William L. Ensign not voting, not having heard the case; and William B. Johnson not present, not voting).
2. Montello Avenue and Queen Street, N.E.: 3-0 (Jerrily R. Kress, John G. Parsons and Maybelle Taylor Bennett, to approve, William L. Ensign not voting, not having heard the case; William B. Johnson not present, not voting).
3. 11th Street between G and K Street, S.E.: 3-0 (Jerrily R. Kress, Maybelle Taylor Bennett and John G. Parsons, to approve, William L. Ensign not voting, not having heard the case; William B. Johnson not present, not voting).
4. Georgia Avenue between Park Road and Shepherd Street, N.W.: 3-0 (Jerrily R. Kress, John G. Parsons and Maybelle Taylor Bennett, to approve, William L. Ensign not voting, not having heard the case; William B. Johnson not present, not voting).
5. Georgia Avenue between Madison and Peabody Streets, N.W.: 3-0 (Jerrily R. Kress, John G. Parsons and Maybelle Taylor Bennett, to approve, William L. Ensign not voting, not having heard the case; William B. Johnson not present, not voting).
6. Riggs Road and South Dakota Avenue, N.E.: 3-0 (John G. Parsons, Jerrily R. Kress and Maybelle Taylor Bennett, to approve, William L. Ensign not voting, not having heard the case; William B. Johnson not present, not voting).

7. Rhode Island Avenue between 17th and 24th Streets, N.E.: No vote taken, deferred for William L. Ensign to read the record, participate in discussion and vote on this rezoning.
8. Benning Road and East Capitol Street, N.E. and S.E.: 3-0 (John G. Parsons, Jerrily R. Kress and Maybelle Taylor Bennett, to approve, William L. Ensign not voting, not having heard the case; William B. Johnson not present, not voting).
9. Benning Road and F Street, S.E.: 3-0 (John G. Parsons, Jerrily R. Kress and Maybelle Taylor Bennett, to approve, William L. Ensign not voting, not having heard the case; William B. Johnson not present, not voting).

The record of this case was provided to and read by Commissioner William L. Ensign so that he would be able to discuss and participate in Rezoning Initiative No. 7.

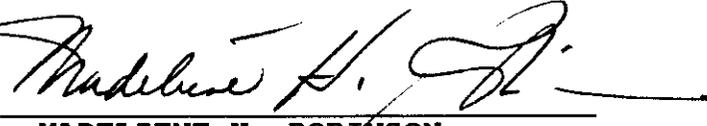
Vote of the Zoning Commission taken at its regular monthly meeting on January 9, 1995: 3-1 (Jerrily R. Kress, William L. Ensign and Maybelle Taylor Bennett, to approve the rezoning of area No. 7 from C-1 to C-2-A; John G. Parsons opposed, William B. Johnson not present, not voting).

This order was adopted by the Zoning Commission at a special public meeting on April 20, 1995 by a vote of 4-0: (Maybelle Taylor Bennett, William L. Ensign, John G. Parsons and Jerrily R. Kress, to adopt).

In accordance with 11 DCMR 3028.8, this order is final and effective upon publication in the D.C. Register, that is, on
 MAY 26 1995 .



JERRILY R. KRESS
Chairperson
Zoning Commission



MADELIENE H. ROBINSON
Director
Office of Zoning