

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 854

Case No. 94-8

(Map Amendment @ 615 Alabama Avenue, S.E.)

October 19, 1998

On April 14, 1994, the Office of Zoning (OZ) received an application from Nathan and Connie Saunders requesting the Zoning Commission for the District of Columbia to amend the District of Columbia Zoning Regulations. The applicants requested the Zoning Commission to rezone Lot 804, in Square 5955 from R-2 to C-2-A.

Square 5955 in which the subject property is located, is bounded by Alabama Avenue, S.E. to the north, Savannah Street, S.E., to the south, 6th and 8th streets, S.E. to the west and east respectively. The subject property measures approximately 9,500 square feet and is improved with a two story, nine unit masonry apartment house.

The applicant seeks this change of zoning to establish a restaurant in the apartment building at 615 Alabama Avenue, S.E.

Pursuant to 11 DCMR 3011.1 and by memorandum dated March 3, 1995, OZ referred the application to the District of Columbia Office of Planning (OP) for a preliminary report and recommendation about whether the application had sufficient merit to warrant authorization of a public hearing.

By memorandum (preliminary report), dated August 23, 1995, OP recommended that the application be denied without a public hearing. OP, in partial justification of its recommendation, stated as follows:

1. The present zoning of the properties R-2 District permits, matter of right development of single family detached and semi- detached dwelling units with a minimum lot area of 3,000 square feet, a minimum lot width of 30 feet, a maximum lot occupancy of 40 percent, and a maximum height of three stories/ 40 feet.
2. The C-2-A District permits matter of right low density development, including office, retail and all kinds of residential uses, to a maximum floor area ratio (FAR) of 2.5 with nonresidential uses limited to 1.5 FAR, a maximum height of 50 feet, and a maximum lot occupancy of 60 percent for residential uses.

3. The character of the area and the immediate vicinity of the site are primarily residential. The proposed map amendment involves lot 804 in square 5955. The site itself is developed with a residential apartment building.
4. The proposed map amendment from R-2 to C-2-A would introduce commercial zoning on a single lot within a residential area. The proposed change would result in a spot zoning.
5. The Generalized Land Map of the Comprehensive Plan, as amended by the 1994 Plan Amendment Act, effective October 6, 1994 designates the frontage of Alabama Avenue, S.E. from 6th to 8th Streets (which include the site) for moderate density commercial use. The modification from the previous residential use was approved by D.C. Council. This notwithstanding, the character of development in the area from 6th to 8th Streets continues to be residential. OP stated that in the absence of any policy guidance, any change of zoning to C-2-A would appear to present a conflict with housing and neighborhood stability policies of the Comprehensive Plan.
6. It pointed out that no petition or application requesting a map amendment has been received from many other property owners within the proximity of the site.
7. OP stated that Advisory Neighborhood Commission (ANC) 8C voted unanimously to oppose the application.
8. OP in conclusion indicated that this application represents spot zoning, irrespective of the recent Comprehensive Plan amendment that designated commercial use for the area. The report noted that the rezoning is not supported by other policies or land use trends in the area and added that the Comprehensive Plan amendment represents a confusing land use policy change.

By a letter dated September 11, 1995, the applicant challenged OP recommendation that the application be denied without a public hearing. The applicant also stated as follows:

1. The restaurant would be housed in the unused basement of the multi-family building on the site. The facility would provide the much-needed eating facility in Southeast without displacing any families or generate vehicular traffic, rather the C-2-A zoning will link the property to the C-2-A District across the street.
2. The current zoning of the site is inconsistent with the Comprehensive Plan, which designates the site for moderate density commercial land use category. The requested zoning seeks consistency with the Comprehensive Plan.
3. It challenged the OP report that the map amendment will result in spot zoning. It stated that spot zoning does not occur where one is merely extending an existing zone.

4. Additionally, the letter urged the Commission to schedule the case for a public hearing, to give the applicant the opportunity to gather neighborhood support and mount a convincing case.
5. In the alternative, the letter suggested that the Commission defer the matter to give OP the opportunity to propose its own recommendations for change in keeping with zoning consistency requirements.

At its regular monthly meeting on September 11, 1995, the Commission reviewed the application, the OP preliminary report, and the applicant's response to the OP report. The Commission also considered whether the application has sufficient merit to warrant a public hearing. The Commission noted that the Comprehensive Plan specifically designates the site as "moderate density commercial", which translates into C-2-A zoning.

The Commission also noted that the site is in a residential area and that the only C-2-A zoned property in the area is across from Alabama Avenue. Other policies and land use trend in the area do not support rezoning of the site to commercial zoning.

Faced with an apparent conflict between the Comprehensive Plan and the development trend in the area, the Commission deferred the case and sought clarification from the District of Columbia City Council on how to proceed with the case.

In a letter to the City Council dated September 25, 1995, the Commission expressed its concerns about the Comprehensive Plan amendment process and noted its frustration about how to handle rezoning applications brought for specific properties pursuant Comprehensive Plan designation for the specific properties.

The Commission indicated its need for guidance, and the benefit of planning studies, rationales and legislative history that were available to the Council during its deliberations on those specific Comprehensive Plan Amendments.

The Council neither responded to the Commission letter nor furnished the Commission with any of the policy guidance on such zoning cases.

By letter dated March 5, 1998, OZ notified the applicant that the last action on the case occurred on September 25, 1995. The OZ requested the applicant to withdraw or reactivate the application by March 27, 1998.

On April 13, 1998, at the Commission regular monthly meeting, the OZ presented the Commission with the chronology of the case and indicated that the case has been inactive inspite of the letters written to the Council and the applicant. The OZ recommended that the Commission dismiss the case.

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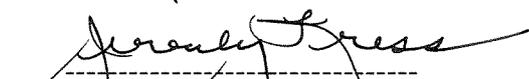
The Commission received and considered the OZ's recommendation. The Commission noted that the applicant may have lost interest in the case and the Council is unlikely to provide the much-needed guidance.

Upon the reason set forth herein the Zoning Commission for the District of Columbia hereby orders that Case No. 94-8 be **DISMISSED**.

Vote of the Commission taken at the public meeting on April 13, 1998: 3-0 (John G. Parsons, Maybelle Taylor Bennett, and Jerrily R. Kress, to dismiss).

This order was adopted by the Zoning Commission at its public meeting on October 19, 1998, by a vote of 3-0: (John J. Parsons, Anthony J. Hood and Jerrily R. Kress, to adopt – Herbert M. Franklin and Angel F. Clarence not voting not having participated in the case).

In accordance with the provision of 11 DCMR 3028, this order is final and effective upon publication in the DC register that is ----- NO. 20-1998 -----



Jerrily R. Kress, FAIA
Chairperson
Zoning Commission



Sheri Pruitt Williams
Interim Director
Office of Zoning

ZCO / VCE