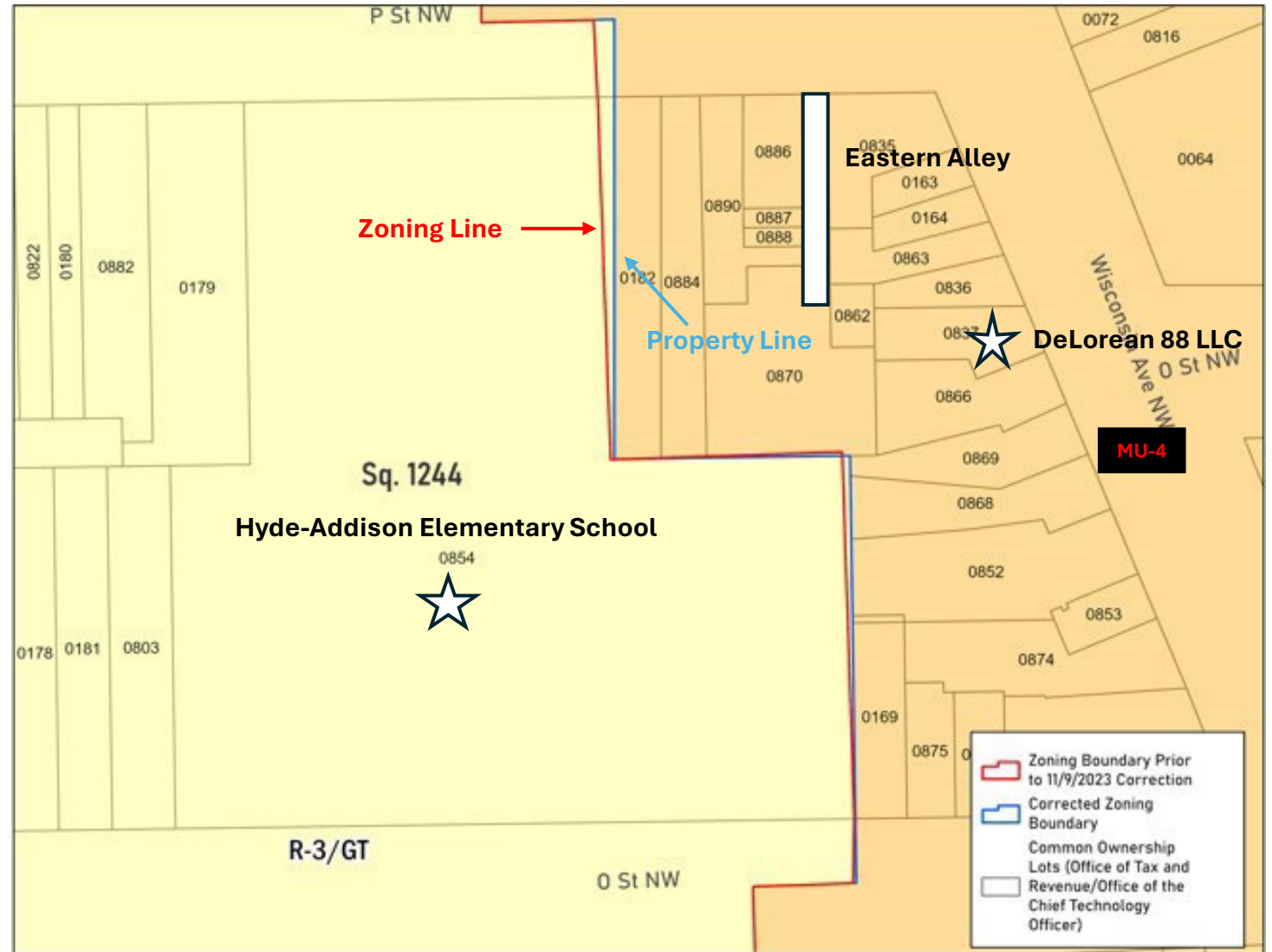


DeLorean 88 LLC Board of Zoning Adjustment Presentation

BZA Case No. 21107

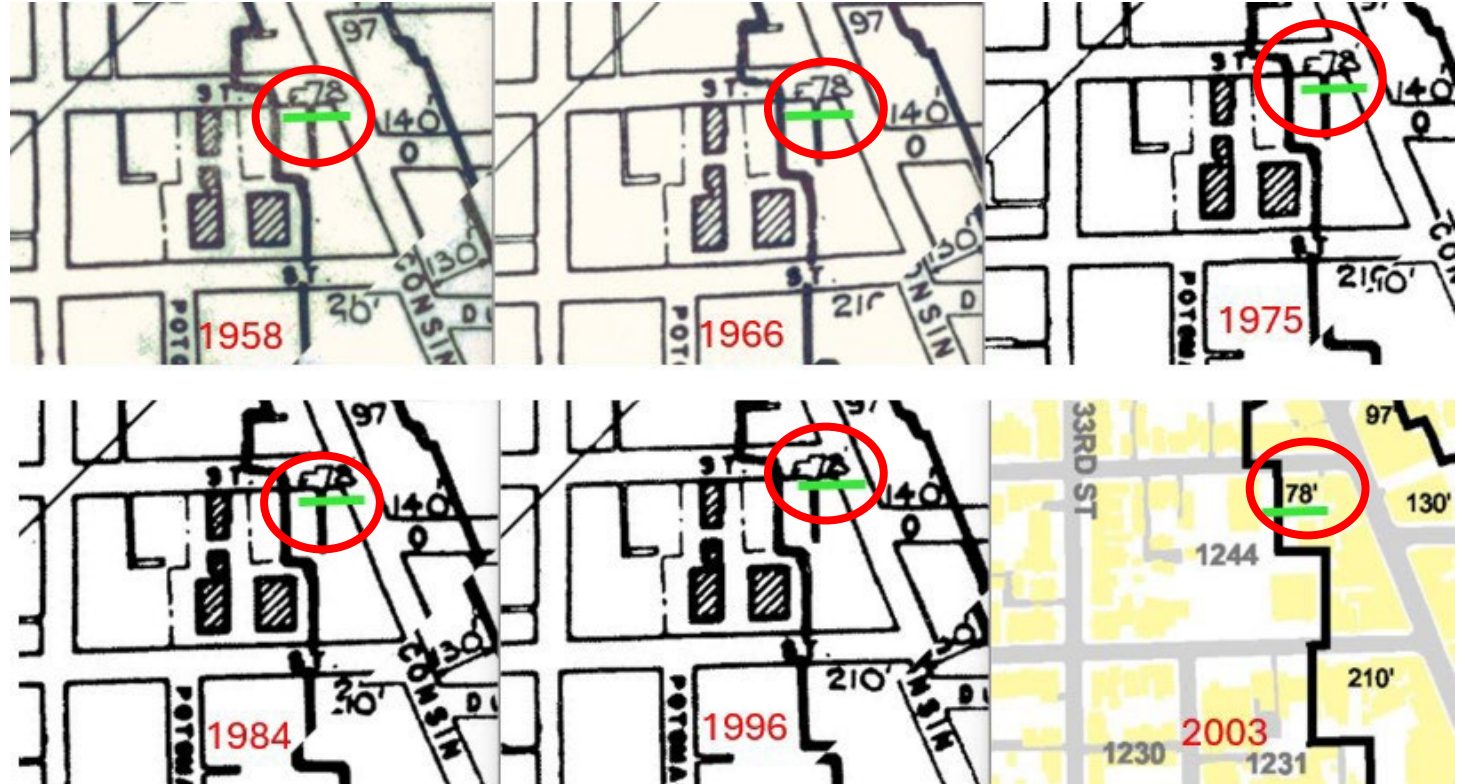
The Properties, the Property Lines, and the Zoning Lines

- Hyde-Addison Elementary School is in Lot 854 Square 1244
- DeLorean 88 LLC operates a retail shop on Wisconsin Avenue
- Along with several other properties, the School enjoyed “split-zoning”, including commercial – or MU-4 – for many years

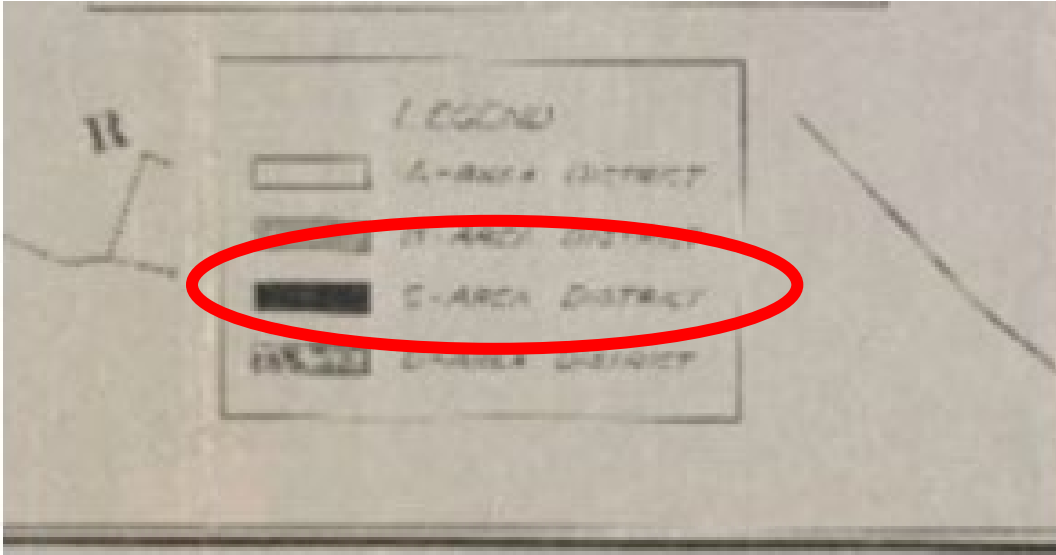


The Eastern Alley and the Zoning Line

- According to the Office of Zoning, the Eastern Alley has historically been the starting point for measurement of the MU-4 Zoning Line
- According to the Office of Zoning, the official maps have historically made clear that the distance from the Eastern Alley to the **MU-4 Zoning Line** is 78' that can be seen on the maps from 1958, 1966, 1975, 1984, 1996, and 2003
- According to the Office of Zoning, there is only 77.42' between the Eastern Alley and the School's Property Line
- Thus, the Office of Zoning admits that the **MU-4 Zoning Line** on its "Official Maps" historically extended at least 0.58' into the School's Property, creating split zoning in lot 854



The History of the Zoning on Lot 854 (1921)



Greater Washington Board of Trade 1921 Key



Greater Washington Board of Trade 1921

- In 1921, the Board of Trade's first authoritative zoning map in D.C. marked commercial districts in black.
- On that map, part of lot 854 was marked black for commercial.

Here is how ANC Commissioner Mathews describes zoning at that time and in this area:

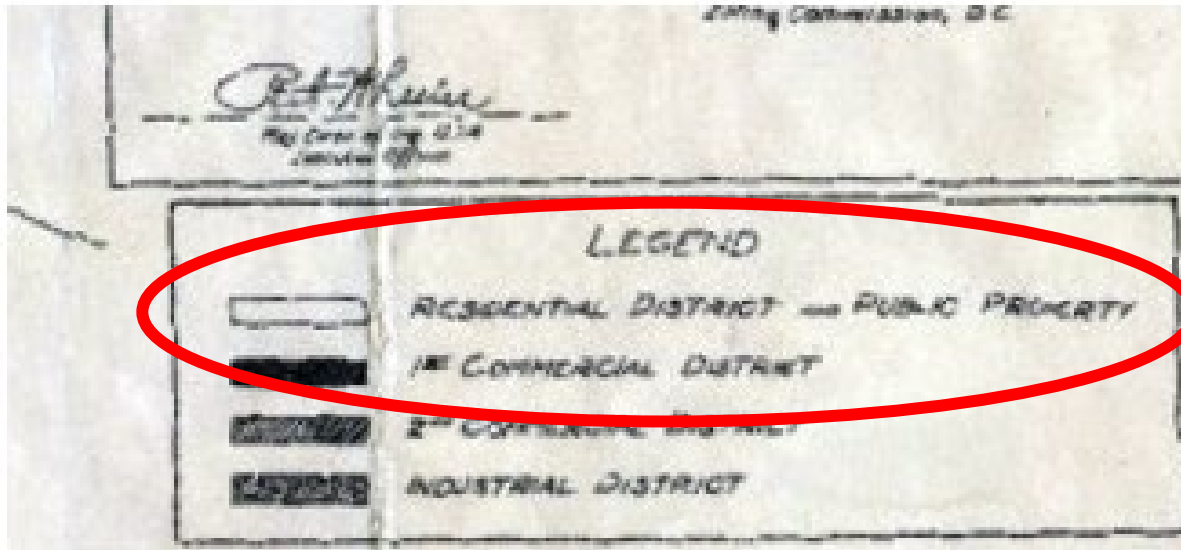
The black colored blocks are the commercial blocks, the light colored blocks the residential. As you can see, obviously M and Wisconsin were zoned for commercial from the start. But this map allowed for a substantial amount of commercial into the residential neighborhood. P Street west of Wisconsin was almost entirely zoned for commercial. 36th Street was as well. And a portion of P Street in east Georgetown (the heart of the historic black Herring Hill neighborhood) was also zoned commercial.

Of course this wasn't a coincidence. It was zoned commercial because it was commercial. The map makers were acknowledging that even though one of the stated goals of adopting the zoning laws was to limit the growth of commercial activity in residential neighborhoods, there already was commercial activity in these parts of residential Georgetown.

The “Call Your Mother” fight highlights the absurdity of Georgetown’s zoning. (2024). Ggwash.org.

<https://ggwash.org/view/74652/how-absurd-is-georgetown-s-zoning-you-need-special-permission-to-use-a-commercial-building-for-commercial-purposes>

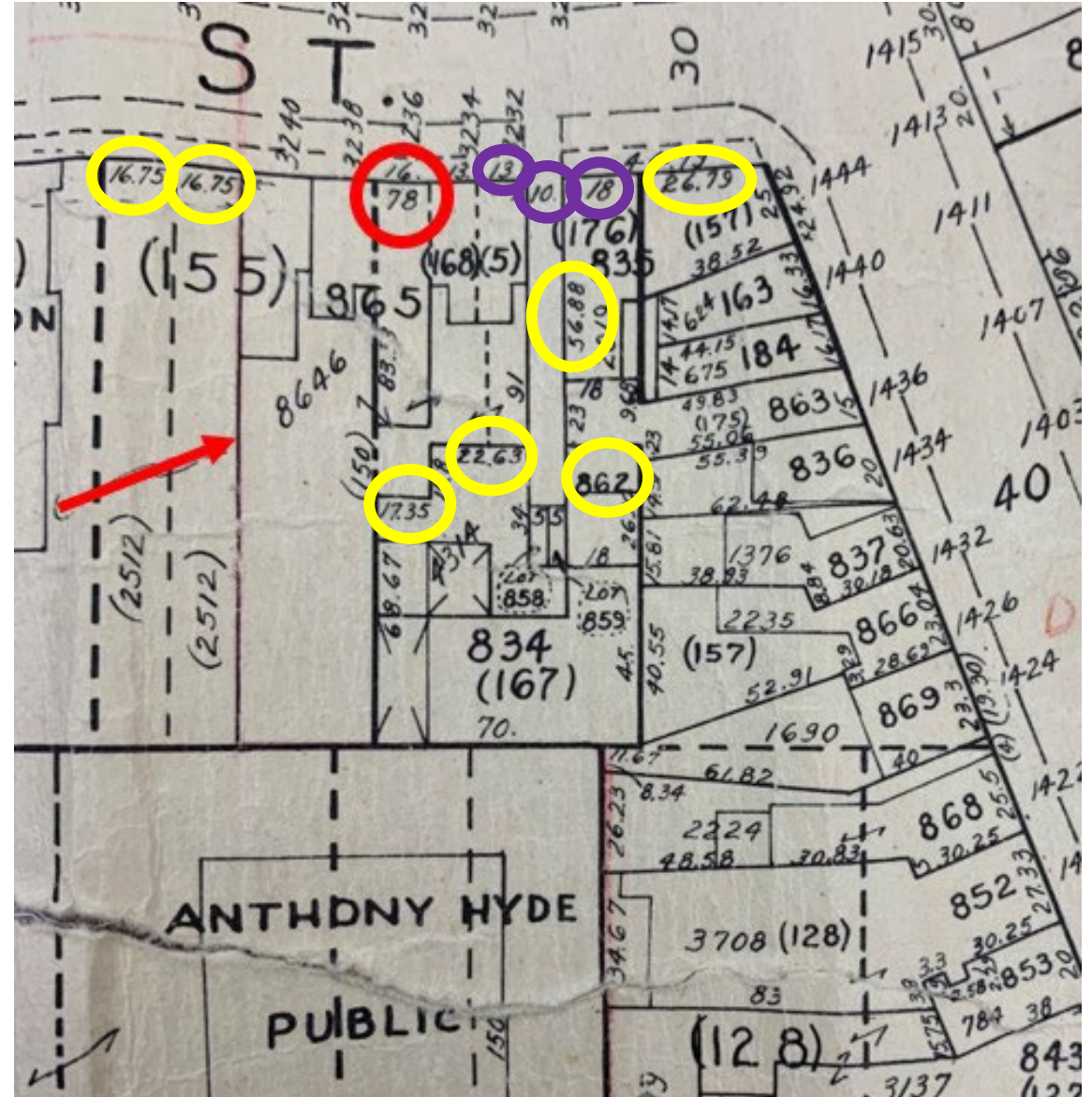
The History of the Zoning on Lot 854 (1924)



- In 1924, the Zoning Commission generated its zoning map
- In the key to the Zoning Commission's map, black indicated "1st Commercial District"
- In the key to the Zoning Commission's map, white indicated "Residential District and Public Property"
- In the 1924 Zoning Commission map, Lot 854 is depicted as both black and white
- By the date of this map, all three schools had been constructed on the Lot. There is no record of any residences ever being built on Lot 854

1958 Baist Real Estate Atlas

- In 1958, the Baist Atlas measures the distance from the eastern alley to the zoning line at exactly 78' (circled in red)
- The measurements in the 1958 Baist Atlas were calculated and recorded to the nearest one one-hundredth of a foot (circled in yellow)
- When the measurement was exact, with no inches, the 1958 Baist Atlas calculated and recorded that measurement as such (circled in purple)
- The 1958 Baist Atlas is the document on which the Office of Zoning purports to rely



The 2021 Decision Regarding 1438 Wisconsin Avenue

DATE: February 11, 2021

Details: On Wednesday, February 10, 2021, Investigator Puente conducted an investigation regarding Towne Wine & Liquor. Towne Wine & Liquor (Class A Liquor Store) is currently located at 1326 Wisconsin Ave N.W., has applied to move up the street to 1438 Wisconsin Ave N.W. The applicant's proposed address is located within 400 feet of Hyde Addison Elementary School which is currently located at 3219 O Street N.W. Hyde Addison Elementary School is currently zoned Residential and Mix Use according to the District of Columbia Zoning maps. Investigator Puente was tasked with determining whether the nearest property line of Hyde Elementary School to 1438 Wisconsin Avenue, NW is zoned MU-4 or R-20.

Investigator Puente went out to the establishment and measured the distance of Hyde Addison Elementary to Towne Wine & Liquors current location and then from the proposed new location. From the current location at 1326 Wisconsin Avenue N.W. to Addison Elementary school is 371 feet. From the new location at 1438 Wisconsin Avenue N.W. to Addison Elementary School is 381 feet.

Investigator Puente observed that on the east side of the property which abuts commercial buildings is separated by a fence down the entire property line.

Investigator Puente conducted checks on the District of Columbia Zoning website, Property quest website and the Department of Transportation (DDOT), and determined that the east side property line runs into the MU-4 Zone. Investigator Puente was able to determine this by the maps that were provided on the websites and that are highlighted that shows the property line for Addison Elementary School starts in Residential and then moves into the Mix-Use Zone and back into the Residential Zone.

Investigator Puente determined that the nearest property line to 1438 Wisconsin Avenue N.W., falls into the Mix-Use Zone.



- In 2021, a license was issued to Towne Wine & Liquor based on the investigation of ABRA
- “Investigator Puente conducted checks on the District of Columbia Zoning website, Property quest website and the Department of Transportation (DDOT), and determined that the east side of the property line runs into the MU-4 Zone. Investigator Puente was able to determine this by the maps that were provided on the websites and that are highlighted that shows the property line for Addison Elementary School starts in Residential and then moves into the Mix-Use Zone and back into the Residential Zone.”
- That license has not been revoked

Split-Zoned Neighboring Properties


1415 Wisconsin Avenue NW

DCOZ OFFICIAL Zoning Map

Refined Search
Address 1415 WISCONSIN AVENUE X

Resources Measure Layers Basemaps Print Help

Imagery



[View 3D Zoning Map](#)
[View Historic Zoning Map](#)
[View Perspective Imagery](#)
[View Google Maps](#)

Zoning / Land Use

Zone District
MU-4
R-3/GT

Overlay Area
GT: Georgetown

Historic District
Georgetown Historic District

DeLorean 88 LLC

Earth

Share

[Twitter](#) [Facebook](#) [Email](#) [Link](#)

Print




1403 Wisconsin Avenue NW

DCOZ OFFICIAL Zoning Map

Refined Search
Address 1415 WISCONSIN AVENUE X Q

Resources Measure Layers Basemaps Print Help

Imagery

View 3D Zoning Map
View Historic Zoning Map
View Perspective Imagery
View Google Maps

Info

Zoning / Land Use

- Zone District
MU-4
R-3/GT
- Overlay Area
GT: Georgetown
- Historic District
Georgetown Historic District

Sq. 1271 Sq. 1270
Sq. 1255
Sq. 1256
Sq. 1244
Sq. 1230 Sq. 1231

Wisconsin Ave NW
P St NW
St NW

DeLorean 88 LLC

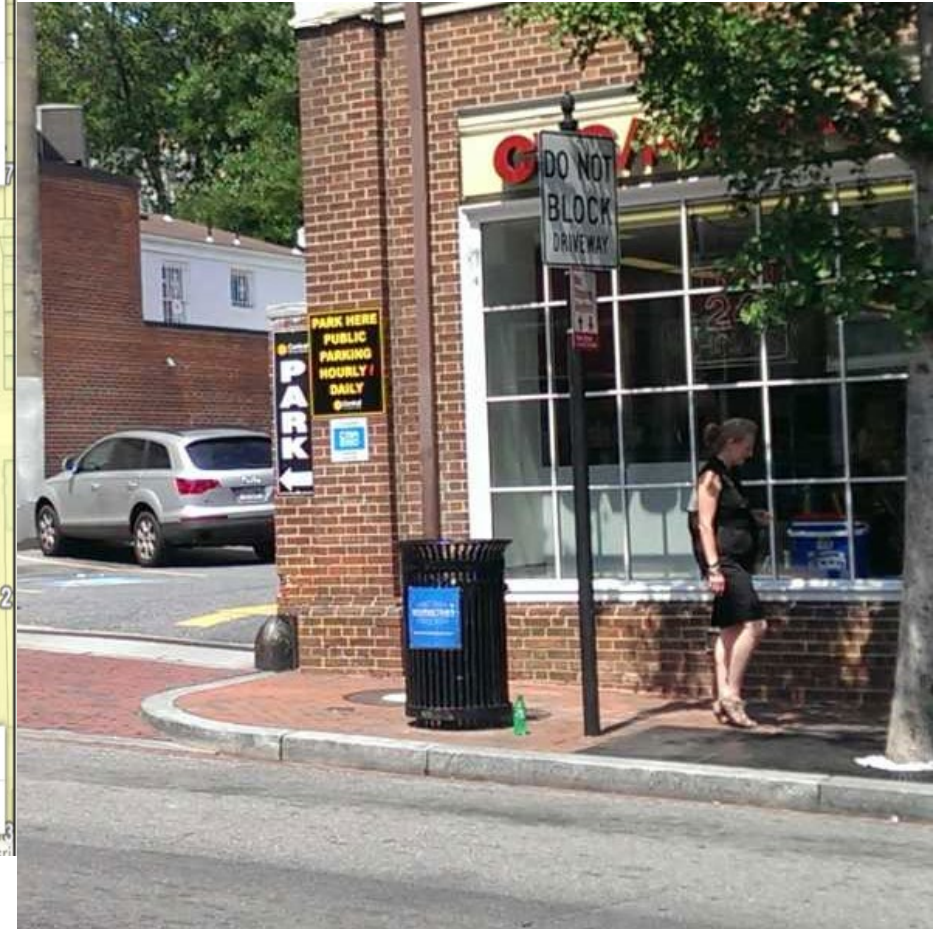
Share
Print

Earth

Bethesda
Washington

31st St NW

DCOZ OFFICIAL Zoning Map



1310 Wisconsin Avenue NW

DCOZ OFFICIAL Zoning Map

Refined Search
Address 441 4th Street NW, Washington, D

Resources Measure Layers Basemaps Print Help

Imagery

View 3D Zoning Map
View Historic Zoning Map
View Perspective Imagery
View Google Maps

Zoning / Land Use

Zone District
MU-4
R-3/GT

Georgetown
GT: Georgetown

Historic District
Georgetown Historic District

Share

Print

Info

Sq. 1244 Sq. 1243 Sq. 1231 Sq. 1232 Sq. 1233

Wisconsin Ave NW

Dumbarton St NW

N St NW

Earth

Bethesda

Washington

1209

Powered by Esri

5:22 PM 9/23/2024



3233 N Street NW

DCOZ OFFICIAL Zoning Map

Refined Search Address 441 4th Street NW, Washington, D

Memory usage: 315 MB

Resources Measure Layers Basemaps Print Help

Imagery

View 3D Zoning Map
View Historic Zoning Map
View Perspective Imagery
View Google Maps

Zoning / Land Use

Zone District
MU-4
R-3/GT

Overview Area
GT: Georgetown

Historic Landmark
Barber-Caperton House

Historic District

Share

Print

Earth

Washington

Powered by Esri



3224 N Street NW

DCOZ OFFICIAL Zoning Map

Refined Search
Address

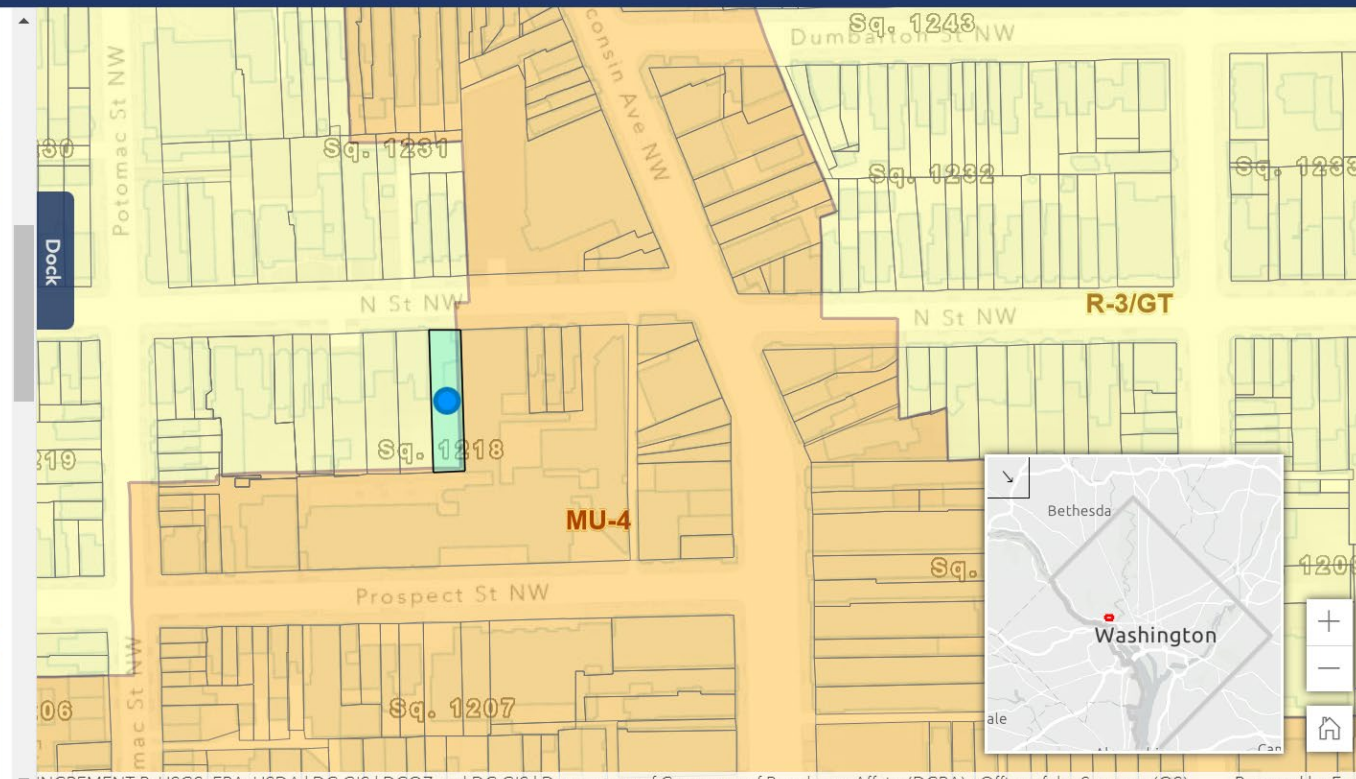
[View Perspective Imagery](#)
[View Google Maps](#)
[View Census Profile](#)

Zoning / Land Use

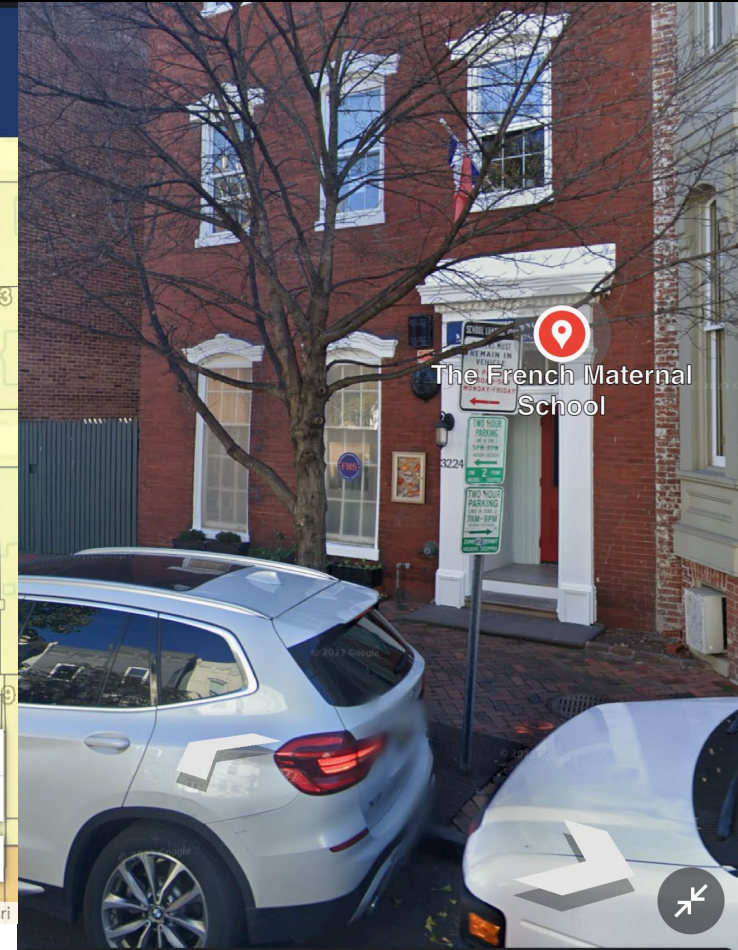
- Zone District**
MU-4
- R-3/GT**
- Overlay Area
GT: Georgetown
- Historic District
Georgetown Historic District
- Green Area Ratio (GAR)
MU-4: 0.3 (View G § 211.1)
- [Learn more about the zoning process](#)

Cases For Lot (2)

Zoning Commission Cases:



INCREMENT P, USGS, EPA, USDA | DC GIS | DCOZ and DC GIS | Department of Consumer of Regulatory Affairs (DCRA) - Office of the Surveyor (OS), ... Powered by Esri



The French Maternal School

3224 N St NW, Washington, DC 20007 · 1.5 mi
Kindergarten

Other D.C. Agencies Designation of Lot 854

9/23/24, 12:56 PM

MyTax DC



DC Office of Tax and Revenue



MyTax DC



< Home

Property Details

SSL : 1244- -0854

Premise Address : 3246 P ST NW WASHINGTON DC
20007

> [Make a Payment](#)
Balance :

[Details](#) [Assessment](#) [Tax Information](#) [Map](#) [Applications and A](#)

Assessment Information

Tax Type	: Exempt	Land Area	: 64,725
Tax Class	: 2 - Commercial	Appraiser	: Kevin Brown

D.C. Office of Tax and Revenue designates the School as “Commercial”

Location Details for 3219 O STREET NW

Location	Units	Boundaries	Coordinates
Full Address:		3219 O STREET NW	
<div>▼</div>			
Alias:		HYDE-ADDISON ELEMENTARY SCHOOL	
MAR ID:		294558	
Type:		NON RESIDENTIAL	
Status:		ACTIVE	
<div>SSLs ▲</div>			
Total SSL(s): 2			
1244 0129		RECORD LOT	
1244 0854		TAX LOT	

D.C. Department of Buildings Master Address Repository designates the School as “Non Residential”

The OZ Investigation

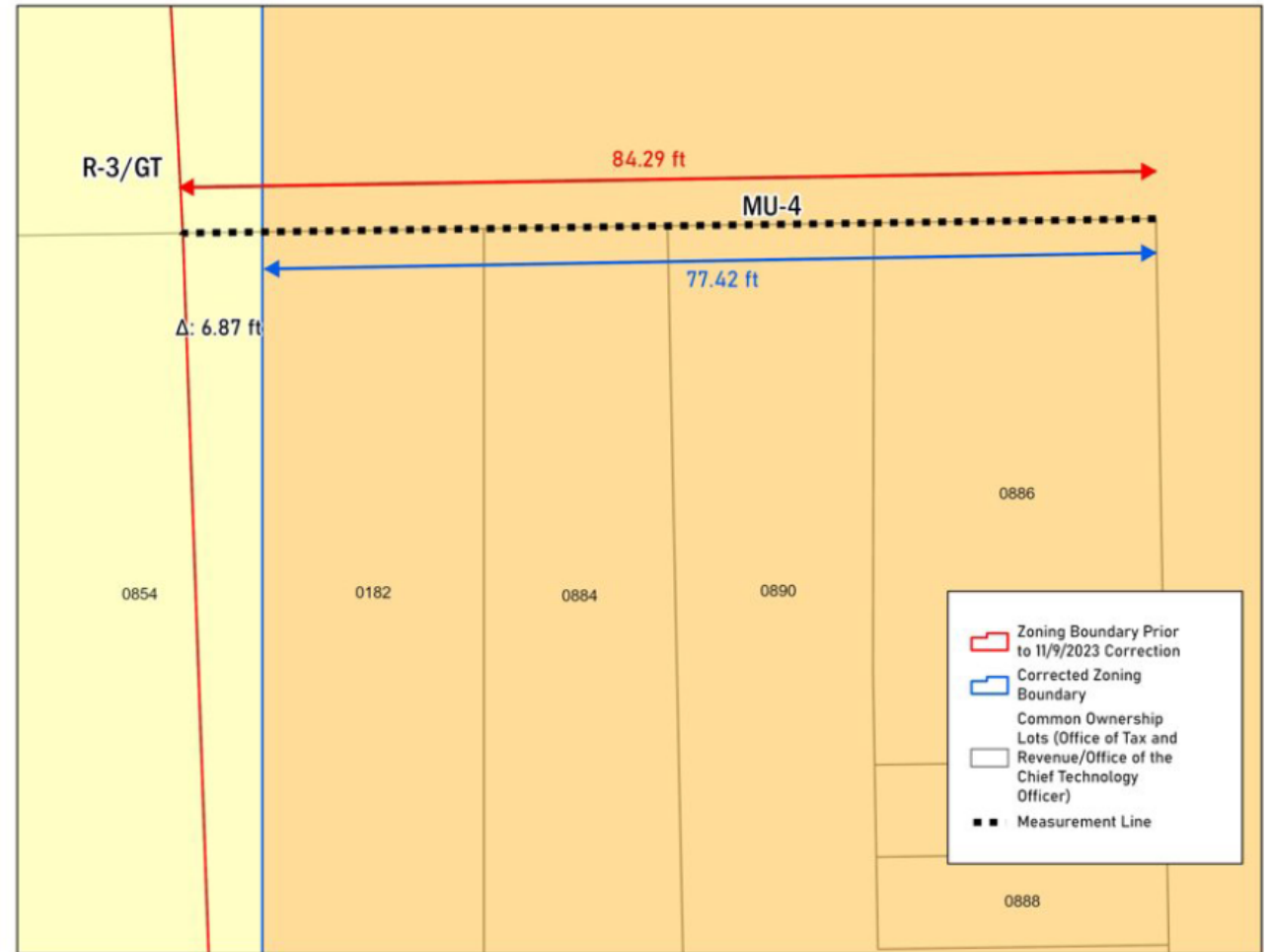
Appellant requests the Board overturn OZ's correction and reinstate the erroneous zoning boundary line, which extends as far as 84.29 feet from the eastern alley. In the alternative, Appellant alleges that a 78-foot distance measured from the alley encroaches slightly onto the Property. In its investigation, OZ did find that the distance between the Property's northeastern lot line and the alley is approximately 77.42 feet based on authoritative GIS real property lot line data provided by the Office of Tax and Revenue and the Office of the Chief Technology Officer. However, OZ's position is that the zoning boundary line runs coincident with the Property's lot line, even if the 78-foot distance measured from the alley encroaches slightly onto the Property. OZ's position that the zoning boundary line runs coincident with the Property's lot line is supported by both (1) the clearly drawn zoning boundary line (at approximately 78 feet measured from the alley) on the historic paper zoning maps; and (2) the intent of the Zoning Regulations, specifically 11-A DCMR § 206.3, which states that zoning boundaries "are intended to coincide generally with lot lines."

The 6' Line

OZ admits that:

Using current GIS property data provided by the Office of Tax and Revenue and the OCTO, the resulting redrawn zoning boundary line on the shared property line of Lots 0854 and 0182, results in the zoning boundary being 77.42 ft. from the edge of the public alley. This is a 6.96-inch difference from the 78 ft. measurement.

The GIS zoning map, prior to November 2023 correction, had a dimension of 84.29 ft. which is more than **6.87 ft.** more than the 78 ft. dimension featured on every Zoning Map since 1958.

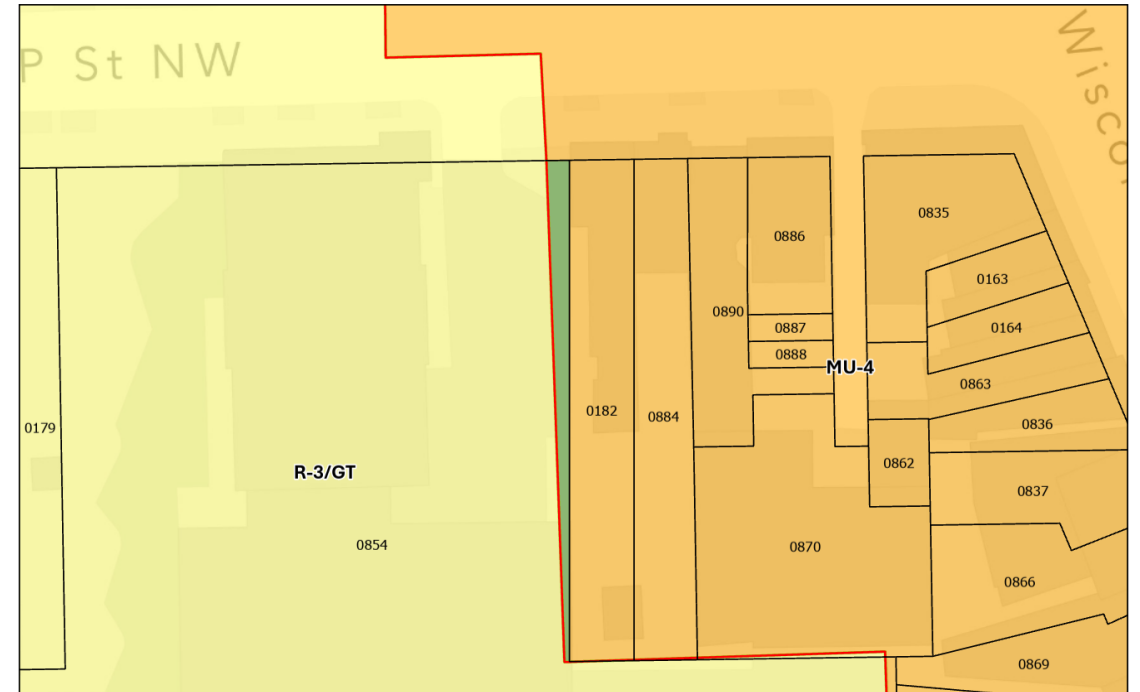
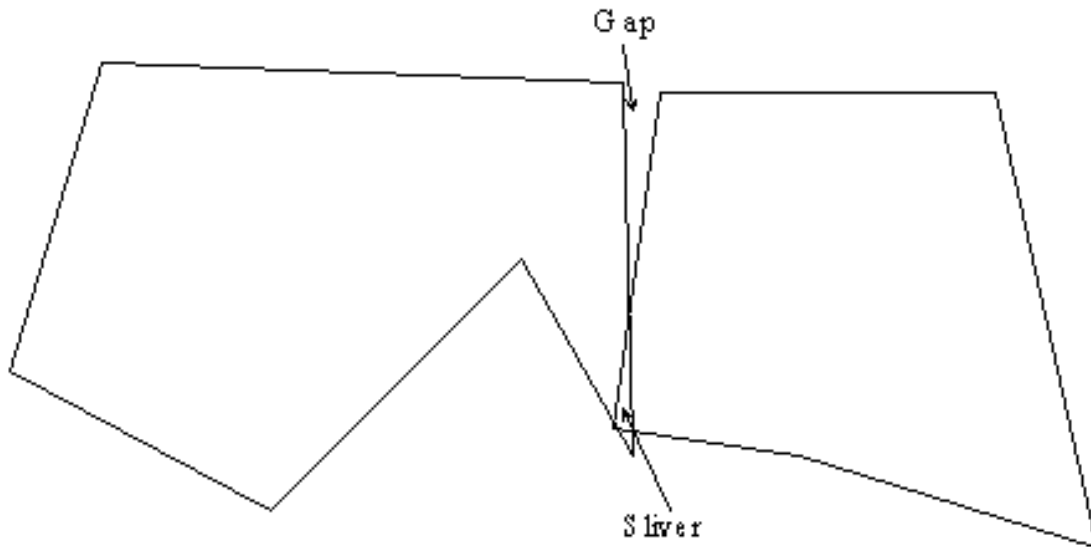


206.3 Dimensioned zone boundaries showing on the Zoning Map are intended to coincide generally with lot lines. Where a dimensional boundary line coincides within one foot (1 ft.) or less with a lot line of a lot of record on May 12, 1958, that boundary line shall be construed to be the lot line at that location. [emphasis added]

2002 Digitization, Snapping, Quality Control, and 2016 Map All Confirm the Split-Zoning

According to OZ:

In approximately 2002, OZ began the process of digitizing the Zoning Map that had been in paper since 1910. Shortly thereafter, we converted the digitized maps to a GIS based map. This required the scanned maps to be layered on the DC Vector Property map, and quality control was conducted to ensure that the lines were realigned to coincide with property boundaries. This task included instances where properties were split zoned because the digitized maps did not align properly.



This is an example of a Sliver created by a digitization error. Note that a proper program has a variable “snap” feature which adjoins (snaps together) the two **new** digitized polygons. If the old property line map was scanned for digitization of zoning lines, the application could have preprogrammed the digitized overlay of a zoning line on a property line.

The Digitization Emails

From: Mathews, Christopher (SMD 2E02) <2E02@anc.dc.gov>

Sent: Thursday, November 9, 2023 9:19 AM

To: Hill, Zelalem (DCOZ) <zelalem.hill@dc.gov>; ATD DCOZ <dcoz@dc.gov>

Subject: Zoning Map Question

Hello,

I am an ANC Commissioner in Georgetown and I have a question about the official zoning map on the Office of Zoning's website. I believe the map is providing inaccurate information about the zoning borders. Can I speak to someone to provide clarity on how the zones are geographically defined?

Thank you very much!

Topher Mathews
ANC 2E02

Get [Outlook for iOS](#)

From: Bardin, Sara (DCOZ) <sara.bardin@dc.gov>

Sent: Thursday, November 9, 2023 12:16 PM

To: Mathews, Christopher (SMD 2E02) <2E02@anc.dc.gov>; Hill, Zelalem (DCOZ) <zelalem.hill@dc.gov>; ATD DCOZ <dcoz@dc.gov>

Subject: RE: Zoning Map Question

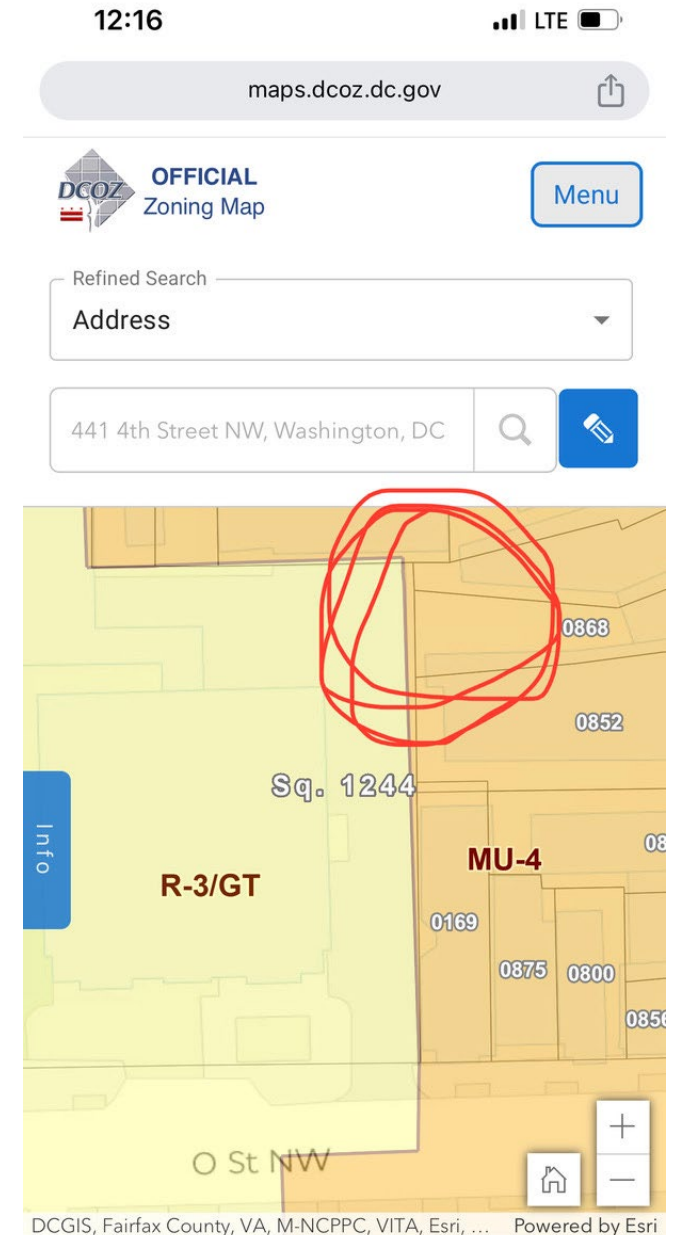
Hello Commissioner Matthews:

Yes, this appears to be a digitization error. The first screenshot below is from the 1966 map, and there is a clear 78' line from the edge of the alley ROW on this square. This measurement is shown on every map up to 2003 (subsequent maps don't show measurements). The pink line on the second screenshot is a 78-foot line we made in GIS to simulate where the line should be, juxtaposed to the red existing zone boundary.

Commissioner Mathews Blog Post

The second occasion occurred more recently. The same commercial property owner was seeking approval for a license at 1432 Wisconsin Ave. Again he received a preliminary approval for the location from ABCA. This surprised me since this lot literally abuts Hyde-Addison School. Unfortunately the zoning map for the school's lot was screwed up. The school's lot was mistakenly identified as being partially commercial and schools on lots zoned commercial are not "counted" for these purposes. The reason for the map error was due to a glitch when the maps were digitized. As you can see below, the orange commercial zone had bled into Hyde-Addison's lot:

Mathews, T. (2023, December 3). *Northwest Georgetown December ANC Update*. Substack.com; Northwest Georgetown Monthly ANC Updates. <https://georgetown.substack.com/p/northwest-georgetown-december-anc>



Commissioner Mathews Blog Post

It's clear that there was no intention to have Hyde-Addison's lot be commercial. Unfortunately the attorneys at ABCA shrugged their shoulders and said there was nothing they could do. So I got on the horn with the Office of Zoning and was soon speaking to the Director herself, Sara Bardin. She was immensely helpful and immediately recognized the issue. She had her team look into it and within an hour the map was fixed:

As a result the school does "count" and any retail shop looking to open on that stretch of Wisconsin Ave. will be blocked. In fact, the unlicensed shop that had been operating at 1432 Wisconsin Ave. has already closed and moved. (Needless to say, I am not this commercial land owner's favorite person, to say the least....)

Ultimately there will be some licensed cannabis shops in Georgetown, and that's fine. The shop that was previously at 1432 is planning to open at 1253 Wisconsin Ave. instead. But it's important to enforce the proximity laws to the 't'. To paraphrase Bill Clinton, let's have the shops be legal, safe and rare.

Mathews, T. (2023, December 3). *Northwest Georgetown December ANC Update*. Substack.com; Northwest Georgetown Monthly ANC Updates. <https://georgetown.substack.com/p/northwest-georgetown-december-anc>



It's fixed. They had to update the service:



Sincerely,

Sara

Sara Bardin
Director

The 1' Rule

**TITLE 11 – ZONING
SUBTITLE A – AUTHORITY AND APPLICABILITY
CHAPTER 2 – ADMINISTRATIVE AND ZONING REGULATIONS**

206 ZONE BOUNDARY LINES

- 206.1 The zone boundaries shall be shown on each section of the Zoning Map.
- 206.2 The scale of the Zoning Map and the dimensions entered on the map shall be shown on each section of the map to serve as guides.
- 206.3 Dimensioned zone boundaries showing on the Zoning Map are intended to coincide generally with lot lines. Where a dimensional boundary line coincides within one foot (1 ft.) or less with a lot line of a lot of record on May 12, 1958, that boundary line shall be construed to be the lot line at that location. [emphasis added]**

Zoning Disclaimer and Zoning Amendment Process

210.6 Before adopting any proposed amendment to this title or the Zoning Maps, the Zoning Commission shall submit the proposed amendment to the Office of Planning for opinion or report; provided, that if the Office of Planning fails to transmit its opinion or report to the Zoning Commission within the period specified in Subtitle A § 211.1, the Zoning Commission may proceed to take final action on the amendment.

210.7 Before adopting any proposed amendment to this title or the Zoning Maps, the Zoning Commission shall hold a public hearing on the proposed amendment in accordance with Subtitle Z §§ 408 and 506.

210.8 The hearing notice shall include a general summary of the proposed amendment to this title and the boundaries of any territory included in the proposed amendment to the Zoning Map.

210.9 Notice of the hearing shall be given in accordance with Subtitle Z §§ 402 and 502. The Zoning Commission shall give additional notice of the hearing as it deems feasible and practicable.

210.10 Any amendment to this title or the Zoning Maps shall require the favorable vote of not less than a majority of the full membership of the Zoning Commission.

“While DCOZ is committed to providing accurate and timely zoning information via the zoning map, DCOZ cannot guarantee the quality, content, accuracy, or completeness of the information, text, graphics, links, and other items contained therein. All data visualizations on the zoning map should be considered approximate. Information provided in the zoning map should not be used as a substitute for legal, accounting, real estate, business, tax, or other professional advice. DCOZ assumes no liability for any errors, omissions, or inaccuracies in the information provided regardless of the cause of such or for any upon any decision made, action taken, or action not taken by the user in reliance upon any maps or information provided herein. DCOZ retains the right to change any content on its zoning map without prior notice.”

Source: Online Zoning Map for DC, <https://maps.dcoz.dc.gov/zr16/>; *see also* 3D Zoning Map, <https://maps.dcoz.dc.gov/3d/>.

Position of Office of Zoning in 2024

From: sonny preet <preetsonny@yahoo.com>
Sent: Tuesday, January 23, 2024 6:54 PM
To: Bardin, Sara (DCOZ) <sara.bardin@dc.gov>
Cc: Phil Musolino (Lawyer) <PMusolino@musolinoanddessel.com>; Leopold (Phils Office) Harris <lharris@musolinoanddessel.com>; sonny preet <sanjeevpreet@gmail.com>
Subject: 3219 O street NW DC 20007

CAUTION: This email originated from outside of the DC Government. Do not click on links or open attachments unless you recognize the sender and know that the content is safe. If you believe that this email is suspicious, please forward to phishing@dc.gov for additional analysis by OCTO Security Operations Center (SOC).

You don't often get email from preetsonny@yahoo.com. [Learn why this is important](#)

Thank you for taking the time to meet with me on January 9, 2024, about the zoning at 3219 O Street NW, Washington, D.C. 20007. During our meeting, you suggested that you would reconsider if the 78-foot distance from the alley identified on the accompanying map suggests that the MU-4 zoning extended into the School Lot. On January 9, and 17, 2024, I and my cousin measured that space twice. As you can see from the attached photos, 78-feet extends beyond the building at the property line.

I would be happy to meet at the location with someone from your staff to review the measurements.

From: [Bardin, Sara \(DCOZ\)](#)
Sent: Wednesday, January 24, 2024 10:42 AM
To: [sonny preet](#)
Cc: [Phil Musolino \(Lawyer\)](#); [Leopold \(Phils Office \) Harris](#); [sonny preet](#); [Schellin, Sharon \(DCOZ\)](#); [Sakinejad, Michael \(DCOZ\)](#)
Subject: RE: 3219 O street NW DC 20007

Mr. Preet:

My recollection (and my colleagues) is that we stated that if you provided us a survey from (an official source, ie. the DC Office of the Surveyor), that I would consider it. This does not satisfy our discussion.

Sincerely,
Sara