Government of the District of Columbia
ZONING COMMISSION

ZONING COMMISSION ORDER 523-A
Case No. 88-19
(Reed-Cooke Special Treatment Area:
Text and Map Amendment)
February 11, 1991

The Zoning Commission initiated this case to consider amendments of the text and map of the Zoning Regulations that would implement the Comprehensive Plan for the National Capital, and in particular, Section 1128 of the Land Use Element, which reads as follows:

Section 1128. Reed-Cooke Special Treatment Area

(a) The Reed-Cooke area is designated as a special treatment area.

(b) The policies established for the Reed-Cooke special treatment area are as follows:

(1) Protect current housing in the area, and provide for the development of new housing.

(2) Maintain heights and densities at appropriate levels; and

(3) Encourage small-scale business development that will not adversely affect the residential community.

D.C. Law 8-129, the District of Columbia Comprehensive Plan Amendments Act of 1989, became effective on May 23, 1990. Law 8-129 did not amend Sec. 1128; however, Sec. 2(a)(10)(L) of Law 8-129 adopted Sec. 1136(b)(42) to provide that the Generalized Land Use Map, as revised, would generally depict the Reed-Cooke Special Treatment area as "included in the moderate density residential land use category."

The Zoning Commission believes that the action that it effects by this order harmonizes Sec. 1128 and Sec. 1136(b)(42) of the Land Use Element. The rezoning action protects current housing and provides for the development of new housing, by rezoning the C-M-2 zoned portions to R-5-B, C-2-A, or C-2-B, within the Reed-Cooke (RC) Overlay. These zoning map changes provide a favorable zoning environment for continued residential and new residential development.

This contrasts sharply with the previous C-M-2 zoning, under which no new dwelling would be allowed. See 11 DCMR 800.4.

Consideration of this case has been long and has presented the Commission with the need to make a difficult choice. The amendment to the Land Use Element reflects the same difficulty. Existing residential, commercial, and industrial uses are juxtaposed in the area. All are thriving, at least sufficiently to deserve protection. These uses are not easily made compatible, and their proximity causes problems that detract from the reasonable enjoyment of the residential uses. The difficulties are compounded by narrow, crowded streets, and sharply-angled and dog-leg intersections.

The Office of Planning conscientiously crafted a proposal that undertook to resolve these issues. The OP proposal clearly established the correct direction and included the essential elements of the decision that the Commission has reached. That proposal was to rezone the area to C-2-B within the RC Overlay. OP concluded that a C-2-B base zone would protect and encourage residential uses consistently with the Comprehensive Plan, and at the same time provide a greater measure of viability for the established commercial and industrial uses, again consistent with the plan, than would an R-5-B base.

The Commission's conclusion is different in several ways from the OP recommendation, but is essentially based on the OP analysis. The Commission has decided that a substantial area of R-5-B base zoning is reasonable and necessary to protect current housing and provide for the development of new housing, and that a lower height limit is necessary to effect the same policies.

The final action that the Commission effects by this Order is based upon two notices of proposed rulemaking, which appeared in the D.C. Register on August 3, 1990, and November 9, 1990 (37 DCMR 5106 and 7139, respectively). The second notice followed a public hearing on September 13, 1990, at which the Commission considered several issues that were not within the scope of the earlier public hearing. The comments on the proposed rules are set forth below.

RAM, the Reed-Cooke Neighborhood Association, urged that special exceptions not be allowed as a means of relief from the RC Overlay provisions; that access to and from parking uses be limited to streets wider than sixty feet; and that assembly halls, auditoriums, and public halls, be added as prohibited uses. RAM also observed that the Citadel Soundstage had stopped operating.

assembly halls, auditoriums, and public halls, be added as prohibited uses. RAM also observed that the Citadel Soundstage had stopped operating.

ANC 1-C continued to urge the Zoning Commission to set a hearing on pure residential zoning; limit height to 50 feet, including roof structures within the 50-foot limit; and provide linkage for housing for low and moderate income families, with the benefits linked to the Reed-Cooke area. ANC 1-C also supported proposed 11 DCMR 1400.5(c) and (d), and 11 DCMR 1401.1(u) through (x).

The 18th & Columbia Road Business Association supported the 50-foot height limit; parking uses, with ANC review, rather than as a special exception; and flexibility for the height and floor area of PUDS.

A number of property owners or their counsel requested particular exemptions or changes to accommodate various specific properties, including the Security Storage Site at 1701 Florida Ave., the site leased by C&P Telephone Co. at 1711 Florida Ave., and the former National Geographic warehouse at 1707 Kalorama Road.

The Zoning Commission referred both notices of proposed rulemaking to NCPC, the National Capital Planning Commission. By comments dated October 4, 1990, and December 14, 1990, NCPC reported 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.

At its meeting on February 11, 1991, the Zoning Commission considered the written comments, and determined:

1. Deletion of proposed sub-sections 1401.2 and 1401.3 is appropriate, because of the termination of the particular use that the provisions would have protected;

2. The preferred version of proposed sub-section 1402.1 is the version that includes an incentive to provide low and moderate income household units;

3. It would not be practical to prohibit access to parking uses from streets that are not wider than sixty feet; and

4. Other recommended changes have been considered, but do not require explicit discussion.

The Zoning Commission believes that the proposed amendments to the Zoning Regulations are in the best interest of the District of Columbia, are consistent with the intent and purpose of the Zoning Regulations and Zoning Act, are not

inconsistent with the Comprehensive Plan for the National Capital, and will appropriately implement and advance the objectives and policies established in the Comprehensive Plan.

In consideration of the reasons set further herein, the Zoning Commission hereby orders APPROVAL of amendments to the Zoning Regulations to establish and map a Reed-Cooke Overlay Zone District, and make related amendments to the Zoning Map. The specific amendments to the Zoning Regulations are as follows:

1. Amend the text of the Zoning Regulations by adopting a new Chapter 14 of Title 11, to read as follows:

CHAPTER 14 REED-COOKE OVERLAY DISTRICT

1400 GENERAL PROVISIONS

1400.1 The Reed-Cooke Overlay District is applied to the portions of Squares 150, 2557, 2558, 2560, 2562, 2563, 2566, 2567, and 2572 in the Reed-Cooke Special Treatment Area, as defined in the Comprehensive Plan, that are zoned non-residentially as of January 1, 1989.

1400.2 The purposes of the District are as follows:

(a) To implement the objectives of the Reed-Cooke Special Treatment Area (Section 1128 of the Comprehensive Plan as adopted), which are to:

(1) Protect current housing in the area, and provide for the development of new housing;

(2) Maintain heights and densities at appropriate levels; and

(3) Encourage small-scale business development that will not adversely affect the residential community.

(b) To ensure that new non-residential uses serve the local community by providing retail goods, personal services, and other activities that contribute to the satisfaction of unmet social, service, and employment needs in the Reed-Cooke and Adams-Morgan community; and

(c) To protect adjacent and nearby residences from damaging traffic, parking, environmental, social, and aesthetic impacts.

1400.3 The Reed-Cooke Overlay District and the underlying commercial and residential zone districts shall together constitute the Zoning Regulations for the geographic area identified in sub-section 1400.1.

1400.4 Where there are conflicts between this chapter and the underlying zoning district, the more restrictive regulations shall govern.

1400.5 In addition to other applicable provisions of this title, the requirements of this chapter shall apply to the following:

(a) All new construction;

(b) All additions, alterations, or repairs that, within any 18 month period exceed in cost 50 percent (50%) of the assessed value of the structure as set forth in the records of the Office of Property Assessment on the date of the application for a building permit;

(c) Any use that requires a change in the use listed on the owner's or lessee's certificate of occupancy; and

(d) Any existing use that requires a new permit from the Alcoholic Beverage Control Board.

1400.6 If there is a dispute between the property owner and the Zoning Administrator about the cost pursuant to sub-section 1400.5(b), the cost shall be determined by the average of the estimates furnished by three independent qualified contractors, the first of whom shall be selected by the owner, the second of whom shall be selected by the Zoning Administrator, and the third of whom shall be selected by the first two contractors.

1400.7 The estimates provided for by sub-section 1400.6 shall be prepared and submitted according to a standard procedure and format established by the Zoning Administrator, and the cost of estimates shall be at the expense of the property owner.

1401 USE PROVISIONS

1401.1 The following uses are prohibited in the Reed-Cooke Overlay District:

(a) Bar or cocktail lounge;
(b) Off-premises alcoholic beverage sales;
(c) Restaurant or fast food restaurant;
(d) Hotel or inn;
(e) Transient accommodations that are not home occupations;
(f) Movie theater;
(g) Gasoline service station or repair garage;
(h) Automobile laundry;
(i) Drive-through;
(j) Automobile or truck sales;
(k) Boat or other marine sales;
(l) Motorcycle sales or repair;
(m) Automobile rental agency that stores or services automobiles within the Overlay District;
(n) Billiard parlor or pool hall;
(o) Video game parlor;
(p) Bowling alley;
(q) Funeral mortuary or other similar establishment;
(r) Parcel delivery service establishment other than one that is exclusively dedicated to serving a sound stage or a movie, video, or television production facility that existed on the effective date of this chapter;
(s) Veterinary hospital;
(t) On-premises dry cleaning establishment;
(u) Assembly hall, auditorium, or public hall;
(v) Bus passenger depot;
(w) Antenna tower in excess of twenty (20) feet in height;
(x) Satellite reception dish that is greater than fifteen (15) feet in diameter; and
(y) Any use prohibited in the CR District by sub-section 602.1 of this title, except a parking lot as permitted by sub-section 1403.2 of this chapter.

1402 HEIGHT AND BULK PROVISIONS

1402.1 The maximum height permitted in the Reed-Cooke Overlay District shall not exceed forty (40) feet plus roof structure as defined in this title; provided that in the RC/C-2-B District the Board of Zoning Adjustment may approve a maximum height of fifty (50) feet with appropriate set-backs from the street, plus roof structures, subject to

determination by the Board that the project will provide for the on-site construction or substantial rehabilitation of low and moderate income household units, as defined by the regulations of the Department of Housing and Community Development of the District of Columbia, of a total gross floor area equal to fifty percent (50%) of the additional gross floor area made possible by this exception.

1402.2 For the purpose of this chapter, no Planned Unit Development shall exceed the matter-of-right height, bulk, and area requirements of the underlying district.

1403 EXCEPTIONS

1403.1 An exception from the requirements of this chapter shall be permitted only if granted by the Board of Zoning Adjustment as a special exception after a public hearing, and subject to the following criteria:

(a) The use, building, or feature at the size, intensity, and location proposed will substantially advance the stated purposes of the Reed-Cooke Overlay District;

(b) Vehicular access and egress shall be designed and located so as to minimize conflict with pedestrian ways, to function efficiently, and to create no dangerous or otherwise objectionable traffic condition;

(c) Adequate off-street parking shall be provided for employees, trucks, and other service vehicles;

(d) If located within a C-2-B zone, the use shall not be within 25 feet of a Residence District, unless separated therefrom by a street or alley;

(e) Noise associated with the operation of a proposed use will not adversely affect adjacent or nearby residences;

(f) No outdoor storage of materials, nor outdoor processing, fabricating, or repair shall be permitted; and

(g) The use, building, or feature at the size, intensity, and location proposed will not adversely affect adjacent and nearby property or be detrimental to the health, safety, convenience, or general welfare of persons living, working, or visiting in the area.

1403.2 A parking lot or parking garage shall be permitted if approved by the Board of Zoning Adjustment as a special exception, subject to the following:

(a) The parking lot or garage shall meet the conditions specified in sub-sections 214.4 through 214.8 of chapter 2 of this title;

(b) The parking lot or garage shall meet the conditions set forth in sub-section 1403.1 of this section; and

(c) The Board may require that all or a portion of the parking spaces be reserved for residential parking, unrestricted commercial parking, accessory parking for uses within 800 feet, and shared parking for different uses by time of day.

2. Rezone from C-M-2 to RC/C-2-B the following lots and squares:

a. In Square 2560, Lots 64, 125, 875, and 882;

b. In Square 2572, Lot 36;

c. In Square 2562, all lots now zoned C-M-2 and not occupied by the Marie Reed School, including Lots 95, 97, and 824;

d. In Square 2567, Lots 58 through 60, 81, and 851;

e. In Square 2566, all lots now zoned C-M-2 and not rezoned to RC/R-5-B in the following paragraph numbered 3; and

f. Any lot in Square 2560, 2567, or 2572 that is now zoned C-M-2 and not specifically listed in this paragraph.

3. Rezone from C-M-2 to RC/R-5-B the following lots and squares:

a. In Square 2563, Lots 73, 79 through 81, 97, 98, 101, 816, 862, 879, 880, 883 through 885, and 887;

b. In Square 2558, the portion of the Square that is now zoned C-M-2;

c. In Square 2562, the portion of the Square that is now zoned C-M-2 and occupied by the Marie Reed School;

d. In Square 2566, Lot 36; Lot 55 (or 95) (occupied by Colortone Press); and Lots 839 and 841 from Ontario Road to a line parallel to and 70 feet east of Ontario Road; and

e. Any lot in Square 2558 or 2563 that is now zoned C-M-2 and is not specifically listed in this paragraph.

4. Rezone from C-M-2 to RC/C-2-A following lots and squares:

a. In Square 2557, Lot 800;

b. In Square 150, Lot 800; and

d. Any lot in Square 150 or 2557 now zoned C-M-2, and not specifically listed in this paragraph.

Vote of the Zoning Commission on proposed action on April 16, 1990: 4-0, in part; 5-0, in part; and 3-1, in part (Maybelle Taylor Bennett, John G. Parsons, Tersh Boasberg, and William Ensign to approve proposed amendments to the text of Title 11; and, except as specified herein, to approve proposed amendments to the Zoning Map; Lloyd D. Smith not voting, not present; Maybelle Taylor Bennett, John G. Parsons, Tersh Boasberg, William Ensign, and Lloyd D. Smith to approve proposed rezoning in Square 2562; John G. Parsons, Maybelle Taylor Bennett, and Tersh Boasberg to approve proposed rezoning in Square 2566; William Ensign, opposed; Lloyd D. Smith not present, not voting).

Vote of the Zoning Commission on proposed action on October 15, 1990: 4-1 in part, and 5-0 in part (Lloyd D. Smith, John G. Parsons, Maybelle Taylor Bennett, and William Ensign to approve an alternative text of 11 DCMR 1402.1; Tersh Boasberg, opposed; and Lloyd D. Smith, John G. Parsons, Maybelle Taylor Bennett, William Ensign, and Tersh Boasberg to approve proposed 11 DCMR 1400.5(c) and (d), and 11 DCMR 1401.1(u) through (y).

This order and amendments to Title 11, DCMR, and to the zoning map, were revised and adopted by the Zoning Commission at its meeting on February 11, 1991, by a vote of 5-0 (Maybelle Taylor Bennett, William L. Ensign, Tersh Boasberg, Lloyd D. Smith, and John G. Parsons to approve.

Pursuant to 11 DCMR 3028, this Order shall be final and effective when it is published in the D.C. Register, that is, on APR 26 1991.

TERSH BOASBERG
Chairman
Zoning Commission

EDWARD L. CURRY
Executive Director
Zoning Secretariat

nopr88-19/LJP63