

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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MEMORANDUM

TO: Zoning Commission of the District of Columbia

FROM: Jennifer Steingasser *JS*
Deputy Director

DATE: November 30, 2007

#07-33

SUBJECT: Setdown Report - Request for a Text Amendment to the Zoning Regulations, Chapter 14 (Reed-Cooke Overlay) Section 1401 (Use Provisions) and an Expedited Public Hearing

1. RECOMMENDATION

The Office of Planning ("OP") requests and recommends that the Zoning Commission setdown the proposed text amendment and schedule a public hearing to be heard on an expedited basis to clarify that sales of wine and beer are allowed within a grocery store located within the Reed-Cooke (RC) Overlay. OP believes that the proposed amendment is an appropriate clarification to the existing regulations and is necessary to further the District's policies of encouraging full-service grocery stores to locate and expand throughout the city.

Title 11 (DCMR) is proposed to be amended as follows: (New text is shown in **bold and underline**):

Chapter 14, REED-COOKE OVERLAY DISTRICT

Section 1401.1 (b) is amended as follows:

- (b) Off-premises alcoholic beverage sales **Provided, that this prohibition shall not apply to the sale of beer and wine occupying no more than five percent of the floor area in a grocery store exceeding 30,000 square feet of floor area.**

This report also serves as the supplemental report as required by Section 3013.

2. BACKGROUND

The Reed-Cooke area is within Ward 1 and is generally bounded by Columbia Road, NW, Euclid Street, NW, 16th Street, NW, and Florida Avenue, NW but for the most part not extending out to any of those streets. The Reed-Cooke Overlay District (Chapter 14 of the Regulations)

ZONING COMMISSION
District of Columbia

CASE NO. 07-33
ZONING COMMISSION
District of Columbia
EXHIBIT NO. 1
CASE NO. 07-33
EXHIBIT NO. 1

was adopted by the Zoning Commission in 1991, by Order No. 523-A (Attachment 1). The Reed-Cooke area was the subject of a two part map and zoning text amendment which addressed the incompatibilities in use, density and height resulting from the then existing industrial C-M-2 zoning. The C-M-2 district was completely eliminated in favor of R-5-B and C-2-B districts with the Reed-Cooke Overlay.

The Reed-Cooke map and text amendment was primarily designed to implement the then adopted Comprehensive Plan and in particular the policies established for the Reed-Cooke Special Treatment Area. Those policies were cited as:

- (a) Protect current housing in the area, and provide for the development of new housing;
- (b) Maintain heights and densities at appropriate levels; and
- (c) Encourage small scale business development that will not adversely affect the residential community. (10 DCMR §1127)

The amendments were primarily focused on eliminating the industrial zoning (which did not allow residential development and which potentially allowed incompatible uses such as automobile repair, manufacturing, service and warehousing) and on how much of the area should be converted to exclusively residential zoning, as opposed to allowing for mixed-use commercial and residential development. A second major issue was the maximum height of new development, particularly in light of the narrow streets which traverse the area. The Zoning Commission ultimately decided on a balance between the R-5-B and C-2-B Districts as shown on the zoning map (Attachment 2).

The Overlay eliminated some of the uses permitted as a matter-of-right in the underlying C-2-B zones (§1401.1). One of the uses listed is "off-premises alcoholic beverage sales." (§1401.1(b)) It is OP's understanding that the intent of this restriction was to prevent what is conventionally described as a liquor store from opening in the area subject to the Overlay.

BZA Order 17395, adopted June 12, 2006 approved area variances from requirements applicable to the rear yard, loading berths, and enlargement of a nonconforming structure to allow the redevelopment of an existing building in a mixed-use project that will include a grocery store, retail or service uses, and general offices on the subject property. The Reed-Cooke Neighborhood Association (RCNA) who was a party to the proceeding submitted a motion for reconsideration of the order (BZA Order 17395-A). According to RCNA, the order improperly failed to address the issue of the applicant's plans to allow the sales of alcoholic beverages for off premises consumption which is prohibited in the Reed-Cooke overlay zone.

The Board denied the reconsideration stating that at the public hearing, the potential for off-premises alcoholic beverages sales was not an issue in the proceeding. The order granting the requested zoning relief did not also grant a variance from the prohibition against off-premises alcoholic beverage sales set forth in § 1401.1(b), as no such relief was sought by the applicant or considered by the Board.

3. PROPOSAL

The grocery store is being constructed in the Citadel building, located at 1631 Kalorama Road, at the northeast corner of the intersection of Kalorama Road and 17th Street, N.W., on a property zoned RC/C-2-B. The grocery store will have in excess of 30,000 square feet of floor area, with the area devoted to the sale of beer and wine and would comprise less than 1,500 square feet.

The OP proposes that the Regulations be amended to allow a grocery store which offers a full complement of goods and services be allowed to sell beer and wine as part of the range of products. The proposed text amendments would:

- Only apply to the off-premise alcoholic beverage sales use otherwise restricted in the Reed-Cooke overlay district;
- Only apply to such sales in a grocery store that is over 30,000 square feet in area and where the area devoted to sales is limited to no more than 5% of the floor area of the store, where the sales would clearly be a minor part of the overall business; and
- Continue to restrict within the Reed-Cooke Overlay's area, the sale of alcoholic beverages either as a principal use or as a component of any use other than a grocery store that is 30,000 square feet or larger.

4. ANALYSIS

OP requests a change in the text of the overlay zone to allow a grocery store that is now in the final stages of construction and build-out to proceed to occupy the space it has leased to include the sale of beer and wine. There has been a resurgence of investment by grocers in their stores in the District of Columbia. Existing grocers have built new stores and/or refurbished existing ones, and added wine and beer in almost every case since 2000.

Legislation was also enacted to induce grocers to locate in the District, first by creating a favorable tax climate (abatements) and second by allowing grocery stores to sell wine and beer at qualifying stores. The wine and beer amendments, adopted in July, 2000, specifically allowed qualifying grocery stores to operate outside the prevailing limit of 300 "Class B" licenses and, more critically, the prior limit of one such license per person or corporation, provided that the grocery store was "full service" and that sales of wine and beer would be "incidental" to the sale of other goods, specifically limiting the sales to be less than fifteen percent of overall annual receipts.

A preliminary review of the Reed-Cooke Order indicates that the prohibition on sale of alcoholic beverages was not intended to apply to sales within the framework of a larger use selling a very wide range of products. Rather, it appears the intent was to limit liquor stores or stores where the principal use is alcoholic sales. It is typical for stores such as Giant, Safeway and Whole Foods to offer beer and wine for sale for off-premises consumption. OP does not believe that the

small area devoted to the sale of beer and wine subsumed within the larger grocery store would cause any adverse impacts on the immediate or larger community.

Comprehensive Plan Recommendation

The amendments sought are consistent with the provisions of the Comprehensive Plan and are in the nature of a clarification and not a fundamental change of existing zoning. The amendments are consistent with the Economic Development Element and the Mid-City Element of the Plan as demonstrated below.

Grocery stores are the focus of specific policies in the Plan and a policy of the **Economic Development Element** states:

Policy ED-2.2.6: Grocery Stores and Supermarkets

Promote the development of new grocery stores and supermarkets, particularly in neighborhoods where residents currently travel long distances for food and other shopping services. Because such uses inherently require greater depth and lot area than is present in many commercial districts, **adjustments to current zoning standards to accommodate these uses should be considered.** (emphasis added.)

The property is mentioned by name within **Mid-City Area Element**:

MC-2.4 18th Street/Columbia Road

The neighborhood continues to experience growing pains as it grapples with strong demand for housing and the popularity of its entertainment scene. To the east of 18th Street, a zoning overlay was created for the Reed-Cooke area in 1989 to protect existing housing and ensure compatible infill development on a number of large properties. Several large low-rise condominium projects were developed in the 1990s and early 2000s, **and today there are plans for a new grocery store in the former Citadel skating rink.** (emphasis added)

5. BASIS FOR EXPEDITED ACTION

Sales of wine and beer have been part of Harris Teeter's plans for each store here, just as it is in its other stores in Virginia and elsewhere, and just as it is for virtually all other full service grocers investing in the District of Columbia. The Harris Teeter store in Adams Morgan is now expected to open in March, 2008, and offer the full range of products it had intended, including beer and wine (if and after a license for such sales is secured).

The plans for the store in the Citadel were set out in detailed floor layout diagrams the Department of Consumer and Regulatory Affairs ("DCRA") reviewed when the store applied for a building permit. The building permit was issued on November 13, 2006, only after DCRA concluded that all of the requirements of the Regulations had been met.

Consistent with its intent from the outset, Harris Teeter has sought needed approvals from the Alcohol Beverage Control Board (“ABCB”) to secure the right to sell beer and wine. The application for the store in Adams Morgan was filed in 2005; that application was “protested” by the ANC, whose objections were resolved in a “Voluntary Agreement” between it and Harris Teeter. Objections of others were also filed later that year and in January, 2006. Among other issues, the Protestants raised a zoning question to ABCB and that Board asked for clarification.

In response to that request, the Zoning Administrator prepared a letter, dated March 21, 2007, affirming the conclusion that sales of wine and beer would be allowed by right at the location inasmuch as those sales would be in the nature of an accessory use, and that the use restrictions in the Reed-Cooke overlay (at § 1401.1) applied to principal uses. Opponents to the sale of beer and wine have appealed the issuance of the permits, contending that the sale of beer and wine is prohibited in all establishments and not only where the sale is a limited accessory use. As previously stated, the grocer’s occupancy is now projected for March, 2008.

The “new Harris Teeter grocery store” has been discussed within the community since the initial announcement in 2004. There was further public discourse of the “new Harris-Teeter” store as part of the efforts to extend and revise the provisions of the “Adams Morgan Moratorium Zone,” a set of rules established by the ABCB to address issues of “peace, order, and quiet” that many found objectionable in the Adams Morgan area. In fact, the Board extended the duration of the initial moratorium zone and expanded its geographic reach as well, as requested by both RCNA and the Kalorama Citizen’s Association. However, in 2004, those organizations filed an amendment to their application that specifically requested that the provisions of the moratorium zone not apply to Class B licenses that grocery stores were then eligible to receive. The overall record in that case led ABCB to conclude, in pertinent part:

“... the [ABCB] recognizes that the written petition filed by KCA and RCNA specifically requests an exception to allow the issuance of new class B licenses for full service grocery stores that meet the requirements promulgated under D.C. Official Code §§ 25-303(c), 25-332(c), or 25-333(c)(2001), in an effort to allow full service grocery stores such as Harris Teeter and Safeway to locate and/or operate in the Adams Morgan Moratorium Zone with a class B license.”

The owner has invested heavily in the restoration of the property and tenant is under contract and obligation for the planned opening of the store in March, 2008. The property owner and tenant are therefore requesting that the text amendment be set for hearing on an expedited basis so that the Commission can resolve the appropriateness of adopting the amendment so the store may secure the required Certificate of Occupancy prior to March, 2008.

6. CONCLUSION

OP recommends that the Zoning Commission set down the proposed amendment for public hearing on an expedited basis.

Title 11 (DCMR) is proposed to be amended as follows: (New text is shown in **bold and underline**):

Chapter 14, REED-COOKE OVERLAY DISTRICT

Section 1401.1 (b) is amended as follows:

- (b) Off-premises alcoholic beverage sales **Provided, that this prohibition shall not apply to the sale of beer and wine occupying no more than five percent of the floor area in a grocery store exceeding 30,000 square feet of floor area;**

This report also serves as the supplemental report as required by Section 3013.

ATTACHMENTS:

1. Zoning Commission Order 523-A
2. Zoning Map
3. BZA Order 17395-A

JLS/mbr

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. (a) The Reed-Cooke area is designated
Reed-Cooke as a special treatment area.
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 residen-
tial 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-E base.

The Commission's conclusion is different in several ways from the OP recommendation, but is essentially based on the CP 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
 - c. 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.

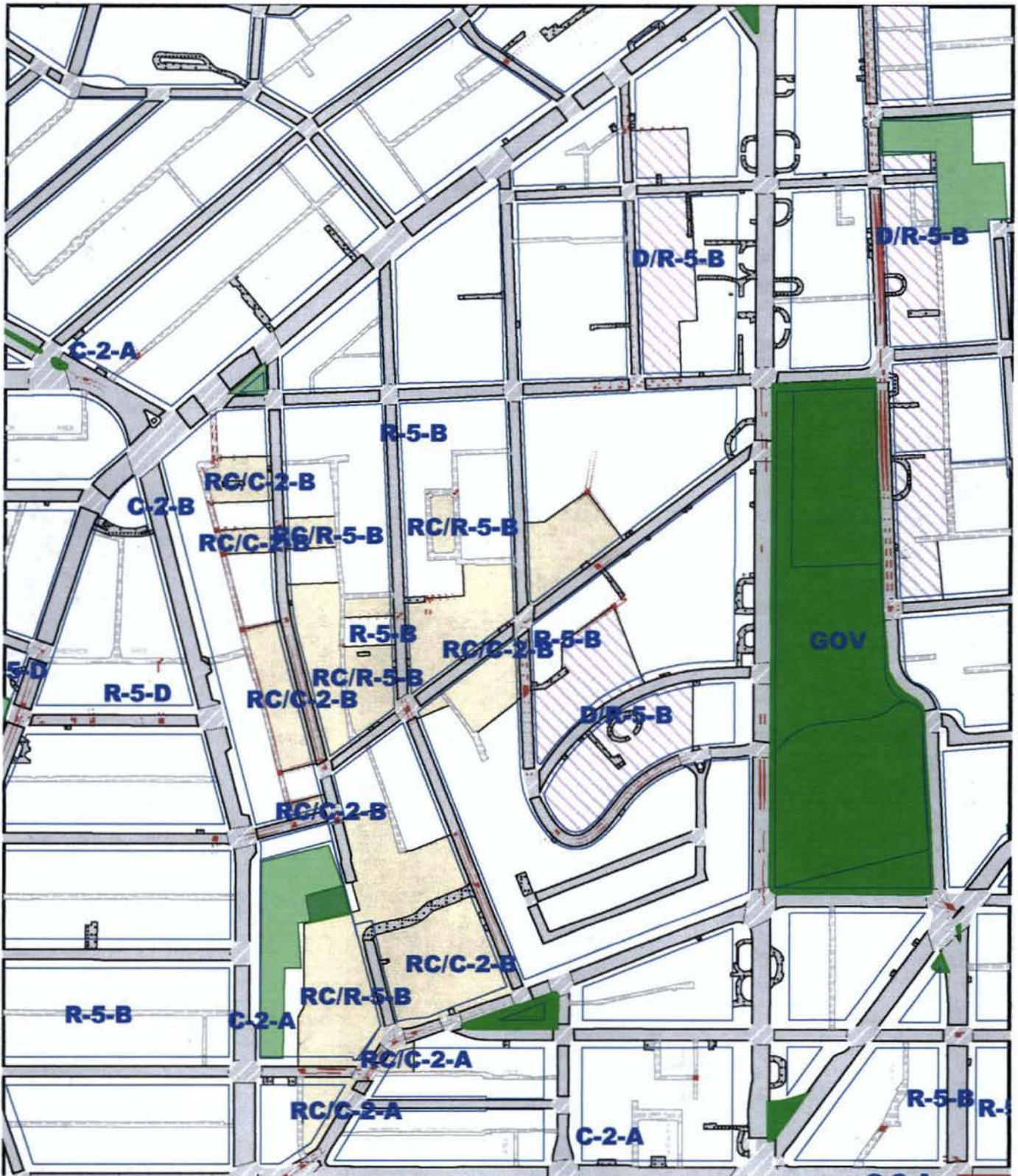


TERSH BOASBERG
Chairman
Zoning Commission



EDWARD L. CURRY
Executive Director
Zoning Secretariat

Extent of Reed-Cooke (RC) Beige) and Nearby Diplomatic (Cross-Hatch) Overlays – Washington DC



Shapes are from DC Office of Zoning and Office of the Chief Tehnology Office (No Warranty)

(Green Areas are Parks or Recreation Sites)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17395-A of Jemal's Citadel LLC pursuant to 11 DCMR § 3103.2, for a variance from the rear yard requirements under section 774, a variance from the nonconforming structure requirements under subsection 2001.1, a variance from the requirement to provide a loading berth that is 55 feet deep under subsections 2201.1 and 2201.6, to allow the establishment of a mixed-use project including a grocery store and general offices in an RC/C-2-B zone district at the premises 1631 Kalorama Road, N.W. (Square 2572, Lot 36).

HEARING DATE: November 29, 2005
DECISION DATE: January 10, 2006
FINAL ORDER DATE: June 12, 2006
**RECONSIDERATION
DECISION DATE:** July 11, 2006

ORDER DENYING RECONSIDERATION

By order issued June 12, 2006, the Board granted approval, subject to conditions, of an application submitted July 1, 2005 by Jemal's Citadel LLC ("Applicant"), the owner of the property that is the subject of the application. The self-certified application requested area variances from requirements applicable to the rear yard, loading berths, and enlargement of a nonconforming structure to allow the redevelopment of an existing building in a mixed-use project that will include a grocery store, retail or service uses, and general offices in the Reed-Cooke/C-2-B zone at 1631 Kalorama Road, N.W. (Square 2572, Lot 36).

Parties in this proceeding are the Applicant, Advisory Neighborhood Commission 1C, and a group comprising the Reed Cooke Neighborhood Association, whose membership includes residents surrounding the Citadel building, and residents living near the subject property in the 1600 block of Kalorama Road or the 2300 block of 17th Street.

On June 26, 2006, the Reed Cooke Neighborhood Association ("RCNA") submitted a motion for reconsideration of the order approving the application. According to RCNA, the order improperly failed to address an issue raised by RCNA concerning the Applicant's plans "to use the subject premises for sales of alcoholic beverages for off-premises consumption," a use that is prohibited in the Reed-Cooke overlay zone.

441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001

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In a response submitted June 30, 2006, the Applicant argued that RCNA had not provided any new evidence that could not have been presented at the public hearing but had acknowledged that the question of sales of alcoholic beverages for off-premises consumption was "repeatedly raised" at the hearing. The Applicant urged denial of RCNA's motion for reconsideration for failure to meet the standard set forth in § 3126.6 of the Zoning Regulations.

CONCLUSIONS OF LAW

The Board is not persuaded that its final decision to approve the application with conditions was in error. As noted by RCNA in its motion, the Applicant's request for variances did not include a request for relief from the prohibition against off-premises alcoholic beverage sales applicable in the Reed Cooke overlay zone. See 11 DCMR § 1401.1(b). Thus, notwithstanding RCNA's assertions at the public hearing, the potential for off-premises alcoholic beverage sales was not an issue in this proceeding. The order granting the requested zoning relief – area variances related to rear yard, nonconforming structure, and loading requirements – did not also grant a variance from the prohibition against off-premises alcoholic beverage sales set forth in § 1401.1(b); no such relief was sought by the Applicant or considered by the Board.

Accordingly, it is therefore ORDERED that the motion for reconsideration is DENIED.

VOTE: 5-0-0 (Geoffrey H. Griffis, Ruthanne G. Miller, Curtis L. Etherly, Jr., Gregory Jeffries, and John A. Mann II (by absentee vote) to deny the motion)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring Board member approved the issuance of this order.

ATTESTED BY: 
JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: DEC 14 2006

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment**



BZA APPLICATION NO. 17395-A

As Director of the Office of Zoning, I hereby certify and attest that on **DECEMBER 14, 2006**, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

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BZA APPLICATION NO. 17395-A
PAGE NO. 2

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ATTESTED BY:


JERRILY R. KRESS, FAIA
Director, Office of Zoning ↓

TWR