

MEMORANDUM

TO: District of Columbia Zoning Commission

FROM: Jennifer Steingasser, Deputy Director

DATE: September 7, 2012

SUBJECT: Zoning Commission Case Number 10-14: **Final Report** for a Proposed Zoning Map Amendment at 1700 1st Street NW.

I. SUMMARY RECOMENDATION

Stuart Davenport (“Applicant”) is requesting approval of a zoning map amendment to rezone Lot 800 in Square 3103 from R-4 to C-2-A zoning.

The Office of Planning (OP) **recommends approval** of the proposed rezoning. The requested rezoning would allow the Property’s zoning designation to reflect the historic and current use of the site. Additionally, following the July 26, 2010 setdown meeting, the site’s land use designation has been changed from mostly moderate density residential use¹ to mixed use low density residential and low density commercial. This change was one of dozens of adjustments adopted pursuant to the Comprehensive Plan (“Comp Plan”) Amendment Act of 2010.² The proposed mixed-use zone is consistent with the Comp Plan guidance.

II. SITE DESCRIPTION & PROPOSAL

The site proposed for rezoning is located at 1700 1st Street NW (hereinafter, the “Property”). It is at the northwest corner of R Street NW and 1st Street. The Property measures approximately 1,222 square feet and is improved with a two-story row building (hereinafter, the “Building”) that dates from the early twentieth century. The Property directly abuts a 15’ wide improved alley to the west and a residential row dwelling to the north. It is zoned R-4, but borders a C-2-A zone to the south.

The Building has a long history of commercial use. A 1905 “application for permit to repair or reconstruct buildings” identified the Building’s use as a “store.” The Building has entrances nearly at grade (in contrast to many of the neighboring row dwellings) and the first floor features high ceilings and storefront windows. A review of certificates of occupancy (CofO) since the 1950s reveals a pattern of grocery store and delicatessen uses on the first floor and basement, with more recent growth to a café/restaurant with related seating. For example, a 1955 CofO identified the use as “grocery (non-conforming)” and a 1986 CofO described the use as “Delicatessen and grocery – no seating.” In 2006, the certificate of occupancy approved a “grocery store” use, which it described as “Delicatessen (8 seats) & retail grocery on first floor with basement storage (non-conforming use with previous CofO); rental unit on second floor.” The most recent certificate of occupancy (April 23, 2010) lists the use as “restaurants – A-2” for Big Bear Cafe, describing the operation as a “(restaurant/prepared food shop w/49 seats and market) located in basement and first floor.”³ According to the Applicant, the second floor would continue to be used as a residential unit.⁴

¹ The southwestern portion of the Property appeared to overlap with the Low Density Commercial/Moderate Density Residential designation.

² The Comprehensive Plan Amendment Act of 2010 was signed by the Mayor on January 20, 2011 and became effective on April 8, 2011 as Law #18-0361. Changes to the Future Land Use Map reflecting the adopted text amendments are currently being finalized.

³ Big Bear Café also operates with a Restaurant business license, Sidewalk Café public space permit, and a Class C Restaurant alcoholic beverage license. See Applicant’s pre-hearing submission dated May 18, 2012, page 5.

⁴ There is a two bedroom residential apartment accessed by a rear staircase.

The Applicant also indicates that, in spite of the long-standing non-conforming commercial use of the Property, a commercial zoning would assist future permitting and licensing requests and ensure eligibility for certain loan and business assistance programs. OP encourages the Applicant to expound further at the hearing as to the importance of the rezoning to ongoing business concerns.

III. AREA DESCRIPTION

Square 3103, where the Property is located, is split-zoned. The majority of the Square is zoned R-4 and generally consists of two-story single family, flat, and apartment uses. The southwest portion of the Square is zoned C-2-A and is composed mostly of residential uses. There are a couple vacant commercial storefronts located near the intersection of 2nd Street NW and Florida Avenue NW. The Bloomingdale Farmers Market is held adjacent to the Property on R Street between 1st Street and Florida Avenue.

The Property is proximate to a commercially zoned (C-2-A) span of Florida Avenue between roughly Rhode Island Avenue and North Capitol Street. This stretch is characterized by sporadic commercial uses, including some vacant storefronts, as well as low and medium density residential uses. To the immediate south of Square 3103 is a triangular federal reservation and a District park. Among other uses, there is an existing studio and exhibition space (87 Florida) and a commercial store (Sunset Liquors) in a C-2-A zone at the northeast and southeast corners, respectively, of the 1st Street and Florida Avenue intersection. To the east of the Square are predominately single and multi-family residential uses in two and three-story dwellings zoned R-4.

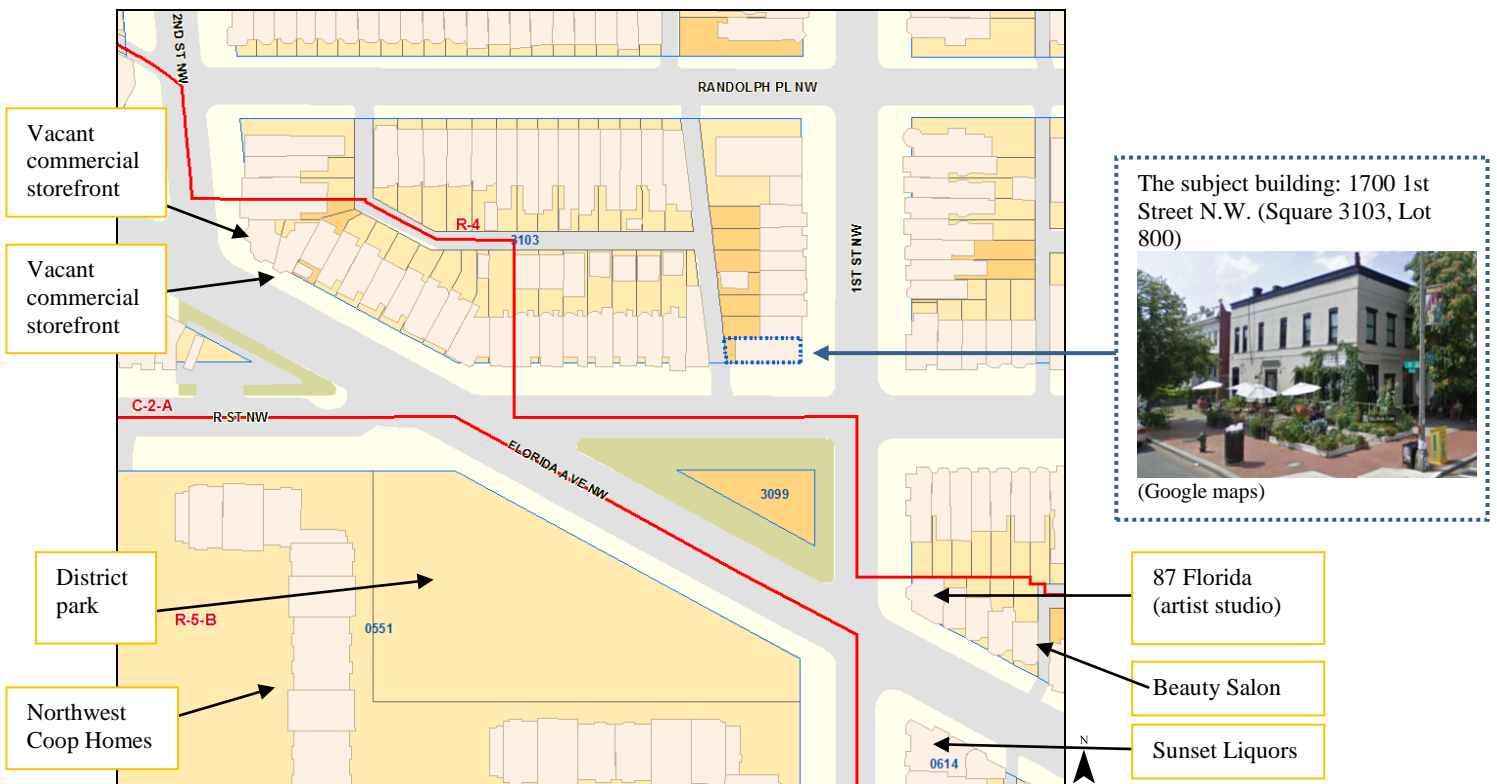


Exhibit 1: Subject site (outlined in blue) and select other sites



Exhibit 2: View looking north across R Street (Bing Maps)

IV. ZONING

The Applicant proposes that the Property be rezoned from R-4 to C-2-A, which would extend north the abutting C-2-A zone district. Generally, the R-4 zone includes those areas now developed primarily with row dwellings. The C-2-A zone, in contrast, is designed to provide facilities for shopping and business needs, housing, and a mix of uses.

One of the primary differences between the zone categories relates to permitted uses. Presently, because of the residential zoning of the site, the commercial use of the subject Property is generally limited to the existing legally non-conforming use. In a C-2-A zone, a range of other commercial uses are permitted.⁵ Among others, a restaurant use would be permitted by right.⁶

Concerning the permitted development density, a comparison of certain bulk requirements for the existing and proposed zoning districts is provided below. The existing structure is non-conforming to the R-4 lot occupancy limitations (87% coverage in a zone which limits row dwellings to 60%) and rear yard requirements (approximately 15' in a zone which requires 20' minimum), among other non-conformities.

⁵ See §§ 721 – 739.

⁶ A “restaurant” is defined as “a place of business that does not meet the definition of a ‘fast food establishment’ or ‘prepared food shop,’ where food, drinks or refreshments are prepared on the premises and sold to customers primarily for consumption on the premises. Any facilities for carryout shall be clearly subordinate to the principal use of providing prepared foods for consumption on the premises.” Restaurants are first permitted in C-1 zones.

	R-4	C-2-A	Existing
Maximum Lot Occupancy	40% (all other structure) or 60% (row dwellings)	Residential lot occupancy limited to 60%; non-residential permitted 100%	87%
Maximum Height	40'	50'	28'
Maximum FAR	None prescribed	2.5 (nonresidential limited to 1.5 FAR) ⁷	1.74 (.82 non-residential, .92 residential)

As more thoroughly discussed in the Applicant’s submissions, should the site be rezoned to C-2-A, the additional development potential within or above the Building would be limited as a matter of right.⁸ The Building, which contains a residential use on the second floor, would be non-conforming to maximum lot occupancy and minimum rear yard due to the residential use. Therefore, any expansion of the structure containing the existing use mix would likely require zoning relief. Although no building expansion is proposed, any additional residential floors above the existing structure would be restricted to a footprint of no more than 733 gross square feet due to the zone’s 60% residential lot occupancy limit.⁹ Alternatively, a commercial expansion within the existing structure could occupy at most about two-thirds of the second floor due to the 1.5 FAR limitation on non-residential uses.¹⁰

Although not proposed, OP surmises that there also would be limited incentive to tear down the Building to construct a new commercial structure due to the C-2-A limitation on non-residential FAR. The Building currently contains 1.74 FAR, which exceeds the permitted non-residential use limits in C-2-A zones. As to constructing a new residential development, achieving a taller residential building on the site would be possible albeit inhibited. Residential uses in a C-2-A zone are limited to 50' in height and 2.5 FAR.¹¹ But due to the small lot size, C-2-A zoning would restrict a new residential building to a significantly smaller footprint than the current structure. In total, a residential building could achieve at most a projected 927 square feet of additional density by right beyond what currently exists on the site.

V. COMPREHENSIVE PLAN

The 2010 Comprehensive Plan (“Comp Plan”) designates the Property as mixed use low density residential and low density commercial. The Low Density Residential designation is used to define the District’s single family neighborhoods, and is generally consistent with R-1-A, R-1-B, and R-2 Zone Districts although other zones may apply. The Low Density Commercial designation is used to define shopping and service areas that are generally low in scale and character, and is generally consistent with C-1 and C-2-A, although other districts may apply. This mixed designation generally runs along Florida Avenue but the Council, in 2010, extended it to include the subject property in recognition of its longstanding commercial use and proximity to a mixed-use designation. The remainder of the 1st Street block is designated “moderate density residential.” A request to rezone any of those properties to C-2-A or another commercial mixed-use zone would be inconsistent with this designation.

⁷ In contrast, a C-1 zone only permits a maximum of 1.0 FAR.

⁸ See Applicant’s Pre-hearing submission, dated August 28, 2012.

⁹ Due to the 2.5 FAR limitation, it is likely that only one additional floor of residential use could be added.

¹⁰ The remaining space, about 295 square feet, would be unusable for commercial use.

¹¹ By comparison, neighboring R-4 zone single family row dwellings and flats are limited to 3-stories and 40' in height (with no FAR limitation).

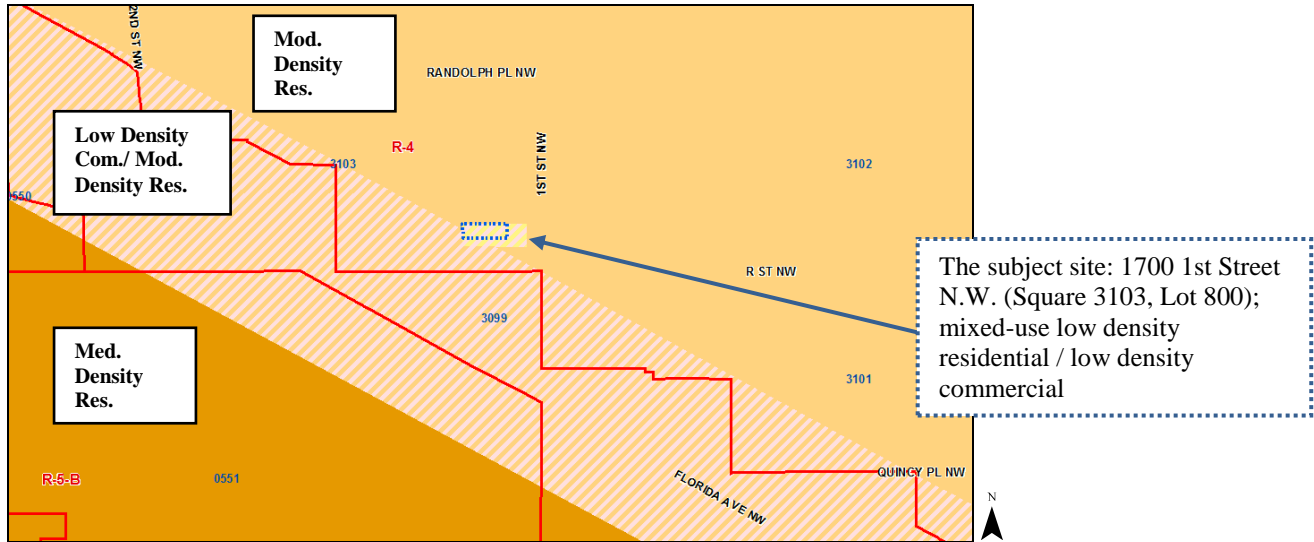


Exhibit 3: Comp Plan Future Land Use Map (note: following final Council action, the map will reflect the approved redesignation to low density residential / low density commercial).

The Comp Plan Generalized Policy Map appears to show the Property as within the Neighborhood Conservation Area¹² but just west of a designated Main Street Mixed Use Corridor, which is an area where “their common feature is that they have a pedestrian-oriented environment with traditional storefronts [and] [m]any have upper story residential or office uses. Conservation and enhancement of these corridors is desired to foster economic and housing opportunities and serve neighborhood needs.” The current and proposed use of the Property exhibits characteristics referenced by this commercial corridor designation.

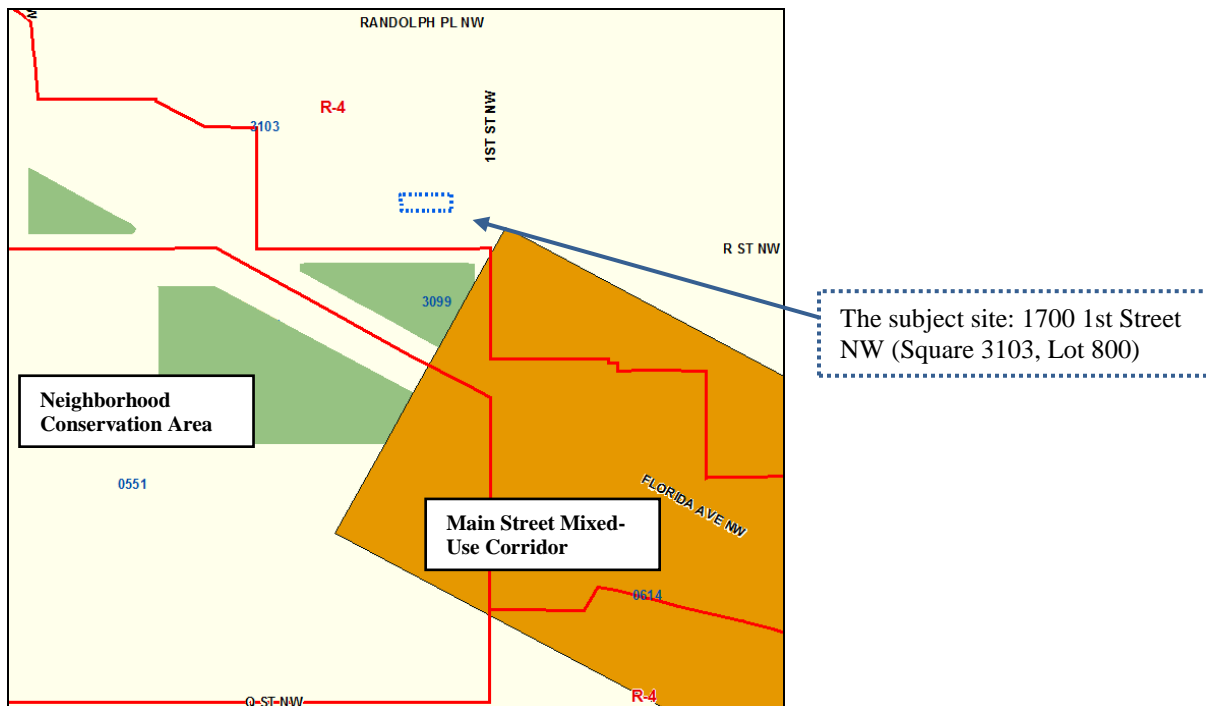


Exhibit 4: Comp Plan Generalized Policy Map

¹² “Neighborhood Conservation Areas” are areas that are “primarily residential in character” and where “the diversity of land uses and building types in these areas should be maintained and new development and alterations should be compatible with the existing scale and architectural character of each area.”

The Comp Plan also provides relevant city-wide land use policy guidance:

Policy ED-2.2.1: Expanding the Retail Sector

“Pursue a retail strategy that will allow the District to fully capitalize on the spending power of residents, workers and visitors, and that will meet the retail needs of underserved areas.”

Policy ED-2.2.3: Neighborhood Shopping

“Create additional shopping opportunities in Washington’s neighborhood commercial districts to better meet the demand for basic goods and services. Reuse of vacant buildings in these districts should be encouraged, along with appropriately-scaled retail infill development on vacant and underutilized sites. Promote the creation of locally-owned, non-chain establishments because of their role in creating unique shopping experiences.”

Policy ED-3.1.1: Neighborhood Commercial Vitality

“Promote the vitality and diversity of Washington’s neighborhood commercial areas by retaining existing businesses, attracting new businesses, and improving the mix of goods and services available to residents.”

ED 3.2 Small and Locally-Owned Businesses

“Small goods and services businesses are an important part of what makes the District’s neighborhood areas work. They provide full and part time employment opportunities for city residents and contribute to the city’s base. They help sustain the diversity of neighborhood shopping areas, and enable the marketplace to respond to changing business conditions and consumer preferences. It is the city’s small business proprietors that have initiated many of the District’s commercial revitalization efforts, driven by a desire and commitment to upgrade their businesses, properties, and neighborhoods.... The success of small businesses in these sectors and others is particularly important in the city’s economically distressed communities. Small businesses in these areas can catalyze neighborhood renewal and provide local jobs.”

More specific guidance is provided for the Mid-City area element (where the subject property is located):

Policy MC-1.1.1: Neighborhood Conservation

“Retain and reinforce the historic character of Mid-City neighborhoods, particularly its row houses, older apartment houses, historic districts, and walkable neighborhood shopping districts. The area’s rich architectural heritage and cultural history should be protected and enhanced.”

Policy MC-1.1.4: Local Services and Small Businesses

“Protect the small businesses and essential local services that serve Mid-City. Encourage the establishment of new businesses that provide these services in areas where they are lacking, especially on the east side of the Planning area.”

Policy MC-1.1.5: Conservation of Row House Neighborhoods

“Recognize the value and importance of Mid-City’s row house neighborhoods as an essential part of the fabric of the local community. Ensure that the Comprehensive Plan and zoning designations for these neighborhoods reflect the desire to retain the row house pattern. Land use controls should discourage the subdivision of single family row houses into multi-unit apartment buildings but should encourage the use of English basements as separate dwelling units, in order to retain and increase the rental housing supply.”

Policy MC-1.1.6: Mixed Use Districts

“Encourage preservation of the housing located within Mid-City’s commercially zoned areas. Within mixed use (commercial/residential) areas, such as Mount Pleasant Street and Columbia Road, encourage commercial uses that do not adversely impact the established residential uses.”

Policy MC-2.7.1: North Capitol/Florida Business District

“Upgrade the commercial district at Florida Avenue/North Capitol/New York Avenue, restoring vacant storefronts to active uses and accommodating compatible neighborhood-serving infill development.”

Taken together, the Future Land Use Map and General Policy Map are intended to provide “generalized guides for development.” The Future Land Use Map “is to be interpreted broadly” and the “zoning of any given area should be guided by the Future Land Use Map, interpreted in conjunction with the text of the Comprehensive Plan, including the citywide elements and the area elements, as well as approved Small Area Plans.” After weighing the range of Comp Plan maps and directives, the proposed rezoning is consistent with Comp Plan guidance.

VI. COMMUNITY COMMENTS

The Applicant indicates that ANC 5C and the Bloomingdale Civic Association are supportive of the proposal; however, OP has not received official letters of support to date. OP is aware that neighbors have expressed both support and opposition to the application. Concerns have been raised related to the impact of the existing use (traffic, noise, etc.) as well as a concern that this could set a precedent for the rezoning to mixed-use of other R-4 zoned row houses immediately north of the site. OP reiterates that those other properties do not share the Comp Plan mixed-use designation applied to the subject site, which could make a rezoning request inconsistent with Council policy as stated in the Comp Plan.

VII. AGENCY COMMENTS

The District Department of Transportation (DDOT) has indicated that it will submit comments under separate cover.

JS/pg
Paul Goldstein, Case Manager