

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission**



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
AND
ZONING COMMISSION ORDER NO. 14-20
Z.C. Case No. 14-20
(Map Amendment to Rezone a Portion of Square 1070)
May 11, 2015**

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2012 Repl.)), hereby gives notice of adoption of the following amendment to the Zoning Map. A Notice of Proposed Rulemaking was published in the *D.C. Register* on April 3, 2015, at 62 DCR 3975. The amendment shall become effective upon the publication of this notice in the *D.C. Register*.

Description of Amendment

The amendment would rezone Lots 38, 39, 73-76, 80-86, and 94 on Square 1070 from C-2-A to the R-4 Zone District.

Procedures Leading to Adoption of Amendment

On October 16, 2014, Advisory Neighborhood Commission (ANC) 6A submitted a letter to the Commission that served as a petition requesting a map amendment to rezone the northwest portion of Square 1070 from the C-2-A Zone District to the R-4 Zone District. At a regularly scheduled and properly noticed meeting on April 10, 2014, ANC 6A, with a quorum present, voted 7-0-0 to request the proposed map amendment. Square 1070 is in Northeast, D.C. and is bounded by East Capitol Street to the south, 15th Street to the west, A Street to the north, and 16th Street to the east. In its petition, the ANC stated that the eastern half of Square 1070 is zoned R-4 and that the square is composed primarily of two (2)-story row houses. The ANC further stated that C-2-A zoning designation allows for matter-of-right construction of buildings that are incongruent with the scale and architecture of the surrounding homes. Additionally, the ANC stated that the proposed map amendment would be consistent with the 2006 Comprehensive Plan, which indicates Square 1070 for low- to moderate-density residential development.

On November 28, 2014, the Office of Planning (OP) submitted a Setdown Report. OP stated that the proposed map amendment would not be inconsistent with the Comprehensive Plan and, accordingly, recommended that the petition be set down for a public hearing. OP noted that

there was a pending application for a building permit (B1307755) for a multi-residential development on Lot 94 in Square 1070 under the C-2-A regulations. OP stated that, under § 3202.5 of the Zoning Regulations, the permit application would continue to be processed under the C-2-A provisions unless and until a Notice of Final Rulemaking effectuates a rezoning.

At a properly noticed public meeting on December 8, 2014, the Commission voted in favor of setting down the proposed amendment as a rulemaking case. A Notice of Public Hearing was published in the January 23, 2015 edition of the *D.C. Register* at 62 DCR 1119.

On March 9, 2015, OP submitted a report reiterating its support for the proposed amendments and readdressing the pending building permit application for Lot 94 in Square 1070. OP stated that, as of February 24, 2015, discussions were ongoing between the owner of Lot 94 and the Zoning Administrator of the Department of Consumer and Regulatory Affairs (DCRA) regarding necessary revisions to the property owner's development plans. Per the Commission's request, OP also included in its report a table of the density regulations of various zoning districts, indicating how the development project would be affected under each district.

At its March 19, 2015 public hearing, the Commission heard testimony from Mr. Todd Sperry, on behalf of ANC 6A, in support of the petition, as well as accepting Mr. Sperry's written testimony. The Commission also heard testimony in opposition from Mr. Taiwo Demuren, the sole officer of 57th Street Mews, Inc., which is the owner of Lot 94 in Square 1070. Along with his testimony, Mr. Demuren submitted a letter in opposition to the proposed amendment. OP indicated that it stood by its prior report and continued to believe the petition is not inconsistent with the Comprehensive Plan.

At the end of the March 19, 2015 public hearing, the Commission voted to take proposed action on the amendment thereby authorizing the publication of a notice of proposed rulemaking and a referral of the proposed amendment to the National Capital Planning Commission (NCPC). The Commission left the record open to receive any statement DCRA might provide regarding the status of Mr. Demuren's application for a building permit.

On March 23, 2015, the Commission received a letter dated March 20, 2014 from DCRA to Mr. Toye Bello, the agent for the owner of Lot 94. The letter stated that it was clarifying DCRA's earlier letter (March 12, 2015) to Mr. Bello, which rejected the building permit application for the development Mr. Demuren planned for Lot 94 because the plans supporting the application were stamped by an engineer whose license had been revoked. As a result, the DCRA letter stated, any construction at the site would require a new building permit application, and any such construction would have to comply with the Zoning Regulations applicable at the date of the application.

The Commission notes that this last statement is somewhat incomplete, since the Zoning Regulations provide that any "construction authorized by a permit may be carried to completion

pursuant to the provisions of this title *in effect on the date that the permit is issued.*" (11 DCMR § 3202.4 (emphasis added).)

A Notice of Proposed Rulemaking was published in the *D.C. Register* on April 3, 2015 at 62 DCR 3975. No comments were received.

In a letter dated April 3, 2015, the Executive Director of NCPC informed the Commission that, through a delegated action dated March 27, 2015, he found that the proposed map amendment is not inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital.

On May 11, 2015, the Commission held a public meeting on the proposed amendment at which time it adopted the proposed map amendment.

The Zoning Map is proposed to be amended as follows:

Rezone from C-2-A to R-4 Lots 38, 39, 73-76, 80-86, and 94 on Square 1070.

On March 19, 2015, upon the motion of Commissioner Turnbull, as seconded by Commissioner May, the Zoning Commission **APPROVED** the petition at the close of its public hearing by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

On May 11, 2015, upon the motion of Chairman Hood, as seconded by Commissioner Miller, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028.8, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on May 29, 2015.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING

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The full text of this Zoning Commission Order is published in the “Final Rulemaking” section of this edition of the *D.C. Register*.