Government of the District of Columbia
Office of Zoning

Z.C. CASE NO.: 02-28

As Secretary to the Zoning Commission, I herby certify that on APR 30 2004 copies of this Z.C. Notice of Final Rulemaking & Order No. 02-28 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

1. *D.C. Register*
2. Christopher H. Collins, Esq.
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3. Gottlieb Simon
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   1350 Pennsylvania Avenue, N.W.
   Washington, D.C. 20004
4. All Councilmembers – see attached
5. All ANCs – see attached
6. Office of Planning (Ellen McCarthy)
7. Ken Laden, DOT
8. Zoning Administrator
9. Corporation Counsel

ATTESTED BY: Alberto P. Bastida

Alberto P. Bastida, AICP
Secretary to the Zoning Commission

ZONING COMMISSION
District of Columbia
CASE NO. 02-28
EXHIBIT NO. 31

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
and
ORDER NO. 02-28
Z.C. Case No. 02-28
(Text Amendments – 11 DCMR)
(Police Department – General and Local Facilities)
January 12, 2004

The Zoning Commission for the District of Columbia, 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); having held a public hearing as required by § 3 of the Act (D.C. Official Code § 6-641.03); and having referred the proposed amendments to the National Capital Planning Commission for a 30-day period of review pursuant to 11 DCMR §§ 3025.3 and 3028.1; hereby gives notice of the adoption of the following amendments to § 199 (Definitions), Chapters 2, 5, 6, 9, and 21 of the Zoning Regulations (Title 11 DCMR). The amendments establish police department uses as distinct permitted uses, with corresponding parking requirements. The Commission took final action to adopt the amendments at a public meeting held on January 12, 2004.

This final rulemaking is effective upon publication in the *D.C. Register*.

Existing Regulations

The existing regulations do not provide for a use that adequately meets the needs of the Metropolitan Police Department ("MPD"). Therefore, any expansion of existing MPD facilities or establishment of such facilities outside of the Central Area (see 11 DCMR § 106.5) must rely on an existing use category or obtain variance relief. In the past, such a use has also been accommodated by an emergency text amendment (Z.C. Order No. 922, June 10, 2000). This has proved to be a barrier to MPD's plans to locate and expand their facilities so as to better meet the immediate policing needs of the citizens.

Description of Text Amendment

The Commission initiated this rulemaking in response to a petition filed by the Metropolitan Police Department (the "Applicant"). The rulemaking seeks to accommodate MPD uses by allowing local police facilities as a matter of right in all districts, while allowing general facilities by special exception in residence districts and as a matter of right in all other districts, except that

vehicle maintenance facilities and equestrian units would be permitted only as special exceptions.

Because these uses involve the parking of large numbers of vehicles during shift changes, but otherwise do not require a significant number of parking spaces, the spaces may be arranged so that some of the spaces are temporarily blocked by other parked vehicles (otherwise known as "stacked parking").

Relationship to the Comprehensive Plan

The amendment is not inconsistent with the goals of the Comprehensive Plan and is consistent with the following sections of the Comprehensive Plan: § 101.1(i), which promotes enhanced public safety; § 102.3, which advocates improving public facilities in order to stabilize the District's neighborhoods; § 110, which generally sets enhanced public safety as one of the highest priorities of the District and specifically advocates a continued improvement in the District's responsiveness to public requests for emergency police assistance; § 606, which encourages public facilities to locate so as to provide optimum service; and the plans for the individual wards (see §§ 1216.1, 1217.1 (a) and (c), 1313.1(a), 1405.4(a)(2)(F), 1516.1, 1616.1, 1617.1(b), 1717.1, 1817.1(a) and (d), and 1917.1(a)).

Public Hearing

The Commission held a public hearing on the proposed text amendment on October 23, 2003.

On October 3, 2003, the Applicant, represented by the law firm of Holland and Knight, submitted into the record a letter that advocated several minor changes to the advertised text. These changes were considered at the hearing and were well within the scope of the subject matter originally advertised.

Prior to the public hearing, ANCs in Ward 6 submitted letters in opposition to the proposed rule, based upon votes taken at their regularly scheduled and properly noticed meetings, with quorums present. Their opposition was centered on the proposal to allow local facilities as a matter of right in residential areas. Specifically, ANC 6B stated its concern that a Neighborhood Command Center, or district or command headquarters, each of which is a type of Police Department Local Facility under the definitions proposed, would be so large as to have a significant impact on the neighboring community. It therefore recommended that such local facilities be allowed only by special exception in residential areas. ANC 6C stated its general opposition to allowing Police Department Local Facilities as a matter of right in residential districts or in commercial districts abutting residential districts. ANC 6A recommended that general and local facilities be permitted in residential districts only by special exception.

By report dated October 14, 2003, the Office of Planning expressed its support for the proposed text amendment. The Office of Planning stated that MPD local facilities should be allowed as a matter of right in residential districts, because they are "less intensive than general facilities and operate within a more specific geographic area," and are therefore compatible with a residential neighborhood.

Following the public hearing, the record was held open until October 30, 2003, to allow the Applicant to submit additional information on its parking needs at specific facilities and to submit a revised text that reflected the concerns expressed by the Commission.

Proposed Action

At its November 12, 2003, public meeting, the Commission took proposed action pursuant to 11 DCMR § 3027.2 to approve the advertised rulemaking. The approved text included several of the changes to the advertised text that were recommended by the Applicant in its October 3, 2003, submission, as well as other minor and clarifying modifications to that text. Such changes and modifications included: refining the definitions, clarifying the parking requirements for existing facilities, adding a special exception for an equestrian unit, and adding to the special exception criteria for vehicle maintenance facilities and equestrian units, both of which are types of general facilities.

The Commission did not propose that local facilities be subject to the special exception process in or around residential areas, as advocated by the ANCs in Ward 6. The Commission is mindful of the ANCs' concerns, however, the Commission believes that local facilities have been, and will continue to be, effectively integrated into residential communities and that existing density restrictions will eliminate the risk that these facilities will have an adverse impact on the surrounding residential area. In high crime residential areas, an expanded presence of such facilities may even spark the rejuvenation of such communities and, therefore, have a beneficial impact on the surrounding residential community. Also, as alluded to by MPD at the public hearing for this case, requiring that these local facilities pass through the special exception process may unduly restrict the placement of such facilities, whose location is a critical component in MPD's efforts to combat crime and better meet residents' needs.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on November 28, 2003, at 50 DCR 10150, for a 30-day notice and comment period.

The proposed rulemaking was referred to the National Capital Planning Commission ("NCPC") under the terms of § 492 of the District of Columbia Charter. NCPC, by report dated December 30, 2003, found that the proposed text amendments would not adversely affect the federal interests nor be inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital.

Final Action

The Commission took final action to adopt the rulemaking at a special public meeting on January 12, 2003. No substantive changes were made to the advertised text.

Based on the above, the Commission finds that the proposed amendments to the Zoning Regulations are in the best interests of the District of Columbia, consistent with the purpose of the Zoning Regulations and Zoning Act, and not inconsistent with the Comprehensive Plan for the National Capital.

The Office of the Corporation Counsel has determined that this rulemaking meets its standards of legal sufficiency.

In consideration of the reasons set forth herein, the Zoning Commission hereby **APPROVES** the following amendments to Title 11, DCMR. Added wording is in bold and underlined:

A. Section 199, DEFINITIONS, subsection 199.1, is amended to add new definitions to read as follows:

Police Department General Facility - a building and associated land used for facilities of the Metropolitan Police Department which operate across the District as a whole, including, but not limited to, the Department's headquarters, vehicle maintenance facilities, laboratories, training units, special operations, tactical units, equestrian units, canine squads, bomb squads, and harbor units. This definition does not include Metropolitan Police Department helicopter and radio transmission facilities.

Police Department Local Facility - a building and associated land used as 1) a headquarters or substation for one of the local districts of the Metropolitan Police Department or 2) a Metropolitan Police Department facility that operates within a specific area of the District, such as a Regional Command Center or a Neighborhood Policing Center.

Regional Command Center – a Police Department Local Facility used for community outreach or administrative control and managerial services for operations, for a specific geographic area that encompasses two or more districts or commands of the Metropolitan Police Department.

Neighborhood Policing Center – a Police Department Local Facility used as a liaison and resource center for a specified area in the District.

B. Chapter 2, R-1 RESIDENCE DISTRICT USE REGULATIONS, is amended as follows:

(a) Section 201, USES AS A MATTER OF RIGHT (R-1), subsection 201.1, is amended by adding a new paragraph (r) to read as follows:

(r) Police Department Local Facility.

(b) A new section 224 is added to read as follows:

224 EXPANSION OF POLICE DEPARTMENT GENERAL FACILITIES

224.1 **The expansion of a Police Department General Facility in existence as of May 23, 1990, shall be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.**

224.2 **The expansion shall be within the height, area, and bulk requirements of the underlying zone.**

224.3 **The expansion shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area, and the expansion of a vehicle maintenance facility shall also not have an adverse impact on the neighborhood because of fumes.**

C. Chapter 5, SPECIAL PURPOSE DISTRICTS, is amended as follows:

(a) Section 501, USES AS A MATTER OF RIGHT (SP), subsection 501.1 is amended by adding new paragraphs (i) to read as follows:

(i) Police Department General Facility, except as provided in § 504.

(b) A new Section 504 is added to read as follows:

504 POLICE DEPARTMENT GENERAL FACILITY

504.1 A vehicle maintenance facility or equestrian unit shall be permitted in an SP District if approved by the Board of Zoning Adjustment as a special exception under § 3104, subject to the provisions of this section.

504.2 The vehicle maintenance facility or equestrian unit shall be located so that it is not likely to become objectionable to adjoining or nearby property because of noise or fumes.

D. Chapter 6, MIXED USE (COMMERCIAL RESIDENTIAL) DISTRICTS, is amended as follows:

(a) Section 601, USES AS A MATTER OF RIGHT (CR), subsection 601.1, is amended by adding a new paragraphs (u) and (v) to read as follows:

(u) Police Department Local Facility.

(v) Police Department General Facility, except as provided in § 607.

(b) A new Section 607 is added to read as follows:

607 POLICE DEPARTMENT GENERAL FACILITY

607.1 A vehicle maintenance facility or equestrian unit shall be permitted in a CR District if approved by the Board of Zoning Adjustment as a special exception under § 3104, subject to the provisions of this section.

607.2 The vehicle maintenance facility or equestrian unit shall be located so that it is not likely to become objectionable to adjoining or nearby property because of noise or fumes.

E. Chapter 9, WATERFRONT DISTRICT, is amended as follows:

(a) Section 901, USES AS A MATTER OF RIGHT (W), subsection 901.1 is amended by adding new paragraphs (v) and (w) to read as follows:

(v) Police Department Local Facility.

(w) Police Department General Facility, except as provided in § 917.

(b) A new section 917 is added to read as follows:

917 POLICE DEPARTMENT GENERAL FACILITY

917.1 A vehicle maintenance facility or equestrian unit shall be permitted in a W District if approved by the Board of Zoning Adjustment as a special exception under § 3104, subject to the provisions of this section.

917.2 The vehicle maintenance facility or equestrian unit shall be located so that it is not likely to become objectionable to adjoining or nearby property because of noise or fumes.

F. Chapter 21, is amended as follows:

(a) Section 2101 SCHEDULE OF REQUIREMENTS FOR PARKING SPACES, subsection 2101.1 is amended by adding the following uses:

USES	NUMBER OF SPACES REQUIRED
Police Department General Facility or Local Facility (established after January 12, 2004, not including the expansion of facilities existing as of January 12, 2004):	
All R Districts, C-1, C-2-A, C-3-A	**In excess of 2,000 ft.^{2}, 1 space for each 600 ft.^{2} of gross floor area and cellar floor area**
All other Districts	**In excess of 2,000 ft.^{2}, 1 space for each 1,800 ft.^{2} of gross floor area**

(b) Section 2117 ACCESS, MAINTENANCE AND OPERATION, is amended as follows:

(1) Subsection 2117.4 is amended to read as follows:

2117.4 Except as provided in §§2117.15 **and 2117.16**, each required parking space shall be accessible at all times directly from improved streets or alleys or shall be accessible from improved streets and alleys via graded and unobstructed private driveways that form an all-weather impervious surface. Improved streets and alleys providing access to required parking spaces shall have a minimum width of ten feet (10 ft.) and be paved in compliance with the standards of the D.C. Department of Transportation.

(2) A new subsection 2117.16 is added to read as follows:

2117.16 Required parking spaces for a Police Department General Facility or Police Department Local Facility may be arranged so that all spaces are not accessible at all times.

Vote of the Zoning Commission taken at its public meeting on November 12, 2003, to **APPROVE** the proposed rulemaking: **3-0-2** (Carol J. Mitten, Anthony J. Hood, and Peter G. May to approve; James H. Hannaham and John G. Parsons not present, not voting).

This order was **ADOPTED** by the Zoning Commission at its public meeting on January 12, 2004, by a vote of **3-0-2** (Carol J. Mitten, Anthony J. Hood, Peter G. May; John G. Parsons, having not participated in the case, not voting; James H. Hannaham not present, not voting).

In accordance with the provisions of 11 DCMR § 3028.9, this order shall become effective upon publication in the *D.C. Register*; that is, on MAY 07 2004.

CAROL J. MITTEN
CHAIRMAN
ZONING COMMISSION

JERRILY R. KRESS, FAIA
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*.