

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



MEMORANDUM

To: Office of Documents and Administrative Issuance
From: Sharon S. Schellin⁵³
Secretary to the Zoning Commission
Date: November 28, 2006
Re: Publication for the Office of Zoning

7.11.2006

Please publish the following in the *D C Register* on December 1, 2006

- 1 Z C. Notice of Final Rulemaking & Order No 05-34 (Case No 05-34),
- 2 Z C Notice of Final Rulemaking & Order No 06-07 (Case No 06-07),
- 3 Z C Order No. 03-03B (Case No 03-03B), and
- 4 Z C Order No 06-22 (Case No 06-22)

The rulemakings are also included on the attached disk in MS Word format

Attachment

ZONING COMMISSION
District of Columbia

RULEMAKING TRANSMITTAL FORM

TYPE OF RULEMAKING ACTION: ☐ EMERGENCY RULES
☒ FINAL RULES ☐ PROPOSED RULES ☐ COMBINED

DATE AND TIME RECEIVED

Office of Documents use only

AGENCY: OFFICE OF ZONING

AGENCY REPRESENTATIVE: SHARON SCHELLIN

ADDRESS: 441 4th Street, N.W., Suite 210 South

TELEPHONE: (202) 727-0340

TITLE AND DESCRIPTION OF RULES: *Map Amendment to Square 895, Lot 76*

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed: Title 11 (Zoning) Zoning Map of the District of Columbia

FINAL RULES ONLY: Give the D C. REGISTER citation and date of publication of the Notice of Proposed Rulemaking for these rules: 53 DCR 5280 DATE: JUNE 30, 2006

COMPLETE CITATION to the statute, regulation, or other legal authority which specifically authorizes the issuance of the substance of these rules: Sections 1 and 3 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799 D.C. Official Code §§ 6-641.01 6-641.03)

LEGAL CERTIFICATION: I certify that I have reviewed the attached rulemaking and, in my opinion, the substance of the text of the rules is legally sufficient.

DATE: NOVEMBER 28, 2006

SIGNED: *Alan Byrte for*

PHONE: (202) 442-9777

☒ FINAL

☐ CONDITIONAL

NAME: EUGENE A. ADAMS

TITLE: INTERIM ATTORNEY GENERAL

PROMULGATOR: Name and title of the person legally authorized to adopt and promulgate these rules (or the name of the board or other body authorized to adopt rules by vote)

Zoning Commission For The District Of Columbia

Title:

COMPLETE CITATION to the statute, regulation, order, or other legal authority that specifically authorizes this person or agency to adopt and promulgate these rules Sections 1 and 3 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799 D.C. Official Code § 6-641.01, 6-641.03).

SIGNATURE OF THE PERSON AUTHORIZED TO ADOPT RULES OR ATTEST TO THE ADOPTION OF RULES

DATE OF APPROVAL OF VOTE: *9-11-06*

APPROVAL OF ATTEST: *Sharon Schellin*

Secretary to the Zoning

TITLE Commission

PHONE: (202) 727-0340

Office of Documents use only

THIS NOTICE PUBLISHED AT:

VOL:

DCR:

DATE:

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING**

and

Z.C. ORDER NO. 05-34

Z.C. Case No. 05-34

(Map Amendment – Square 895, Lot 76)

September 11, 2006

The Zoning Commission for the District of Columbia (the “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), 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 § 492 of the District Charter, hereby gives notice of its adoption of an amendment to the Zoning Map of the District of Columbia that rezones Square 895, Lot 76 from R-5-D to R-5-B. The map amendment applies to property located at 708 Massachusetts Avenue, N.E., which is situated on the north side of Constitution Avenue, N.E., the northeast side of Massachusetts Avenue, N.E.; the south side of C Street, N.E., the west side of 8th Street, N.E., and the east side of 7th Street, N.E.

The Commission took final action to adopt the amendment at a public meeting held on September 11, 2006.

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

The case was initiated by Advisory Neighborhood Commission 6C, which proposed to rezone the subject property from R-5-D to R-4 as a zoning consistency map amendment.

The subject property is zoned R-5-D, a medium-high density zone district. The subject property, however, is designated moderate-density residential by the Comprehensive Plan Generalized Land Use Map.

The subject property surrounds on three sides a property located on the west side of 8th Street, N.E. that is zoned R-4 and improved with a church. Properties on the north side of C Street, N.E. and the west side of 8th Street, N.E. are zoned R-4 and C-2-A and are predominantly developed as row houses, conversions to apartment houses, and medical offices. Properties on the south side of Massachusetts Avenue, N.E. are zoned R-4 and are predominantly developed as row houses with some apartments. Properties on the west side of 7th Street, N.E. are zoned R-4 and are predominantly developed as flats.

The Zoning Commission scheduled a setdown decision on the petition for its December 16, 2005 public meeting. In a report submitted December 2, 2005, the Office of Planning ("OP") recommended setting down the matter as a proposal to rezone the property to R-5-B, rather than the R-4 zoning requested in the petition, because OP was concerned that R-4 zoning would result in excessive nonconformities on the property

At the December 16, 2005 public meeting, the Zoning Commission deferred its set down decision on the petition and requested that OP compare the existing improvements on the site to the building envelope limits of R-4 and the moderate-density R-5 Zone Districts and analyze the potential to convert the existing improvements on the site. On January 4, 2006, OP submitted a supplemental report responsive to the Commission's requests

At the public meeting held on January 9, 2006, the Commission set down the petition to rezone the subject property from R-5-D to R-4, or R-5-B in the alternative. The R-4 Zone District is designed to include those areas developed primarily with row dwellings, but within which there have been a substantial number of conversions into dwellings for two or more families. The R-5-B Zone District permits moderate-density residence uses, including apartment houses. The Commission indicated that the hearing would be conducted as a rulemaking. A notice setting forth both alternatives was published in the *D C Register* on February 3, 2006, at 53 DCR 667

On February 8, 2006, ANC 6C voted to recommend R-4 zoning, but also to support R-5-A or R-5-B zoning in the alternative.

At the public hearing held on March 23, 2006, witnesses testified both in favor and against the application. OP, through a final report on March 6, 2006 and testimony at the hearing, again recommended that the Zoning Commission rezone the subject property R-5-B for the same reason given in its setdown report. The Commission closed the record at the end of the hearing

At its regularly scheduled public meeting on April 20, 2006, the Commission took proposed action pursuant to 11 DCMR § 3027 to rezone the subject property to R-5-B. A Notice of Proposed Rulemaking was published in the *D C Register* on June 30, 2006, at 53 DCR 5280, for a 30-day notice and comment period. Comments were received from individuals and/or organizations in support of the proposed map amendment. By report dated May 25, 2006, the National Capital Planning Commission found that the proposed map amendment to R-5-B would not adversely affect any federal interests nor be inconsistent with the Comprehensive Plan for the National Capital

At its regularly scheduled public meeting of September 11, 2006, the Commission took final action to approve the map amendment as proposed. The map amendment will achieve consistency between the Comprehensive Plan and zoning designations for the subject property in a manner that will create the least degree of non-conformities. In consideration of the reasons set forth herein, the Zoning Commission for the District of Columbia hereby **APPROVES** a change of zoning from R-5-D to R-5-B for the north

side of Constitution Avenue, N E ; the northeast side of Massachusetts Avenue, N E , east side of 7th Street, N E., the south side of C Street, N.E.; and the west side of 8th Street, N.E (Square 895, Lot 76)

Vote of the Zoning Commission taken at its public meeting on May 8, 2006 to **APPROVE** the proposed rulemaking: **3-2-0** (John Parsons, Carol J Mitten, and Michael G. Turnbull to approve, Anthony J. Hood, Gregory N Jeffries opposed)

This Order and Final Rulemaking were **ADOPTED** by the Zoning Commission at its public meeting on September 11, 2006 by a vote of **3-2-0** (John Parsons, Carol J Mitten, and Michael G Turnbull to approve; Anthony J. Hood, Gregory N Jeffries opposed)

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 _____.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKEING**

and

Z.C. ORDER NO. 05-34

Z.C. Case No. 05-34

(Map Amendment – Square 895, Lot 76)

September 11, 2006

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