

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



Z.C. CASE NO.: 05-34

As Secretary to the Commission, I hereby certify that on DEC - 5 2006 copies of this Z.C. Notice Final Rulemaking & Order No. 05-34 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

- | | |
|---|--|
| 1. <i>D.C. Register</i> | 7. Office of Planning (Ellen McCarthy) |
| 2. Mr. William Sisolak
ANC 6C
638 A Street, N.E.
Washington, D.C. 20002 | 8. Ken Laden, DDOT |
| 3. Mark Dixon, Chair
ANC 6C
P.O. Box 77876
Washington, DC 20013 | 9. Zoning Administrator |
| 4. Commissioner Mike Sherman
ANC/SMD 6C06
618 F Street, NE #2
Washington, DC 20002 | 10. Jill Stern, Esq.
General Counsel - DCRA
941 North Capitol Street, N.E.
Suite 9400
Washington, D.C. 20002 |
| 5. Gottlieb Simon
ANC
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004 | 11. Office of Attorney General (Alan Bergstein) |
| 6. Councilmember Sharon Ambrose | 12. Peter C. Shin, Owner
Capitol Hill Group
700 Constitution Avenue, N.E.
Washington, DC 20002 |

ATTESTED BY:

Sharon S. Schellin
Sharon S. Schellin
Secretary to the Zoning Commission
Office of Zoning

ZONING COMMISSION
District of Columbia

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



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 **DEC - 1 2006**.



CAROL J. MITTEN
Chairman
Zoning Commission



JERRILY R. KRESS, FAIA
Director
Office of Zoning

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

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D C , October 12, 2005

Plat for Building Permit of SQUARE 895 LOT 76

Scale 1 inch = 60 feet

Recorded in Book 159 Page 183

Receipt No 23296

Furnished to B CREWS

I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly platted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and platted and agree with plans accompanying the application, that the foundation plans as shown hereon is drawn, and dimensioned accurately to the same scale as the property lines shown on this plat; and that by reason of the proposed improvements to be erected as shown hereon the size of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation, and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations and that this area has been correctly drawn and dimensioned hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or flats, or in excess of 12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private restricted property.)

Date _____

[Signature]
For Surveyor, D C

By D M *[Signature]*

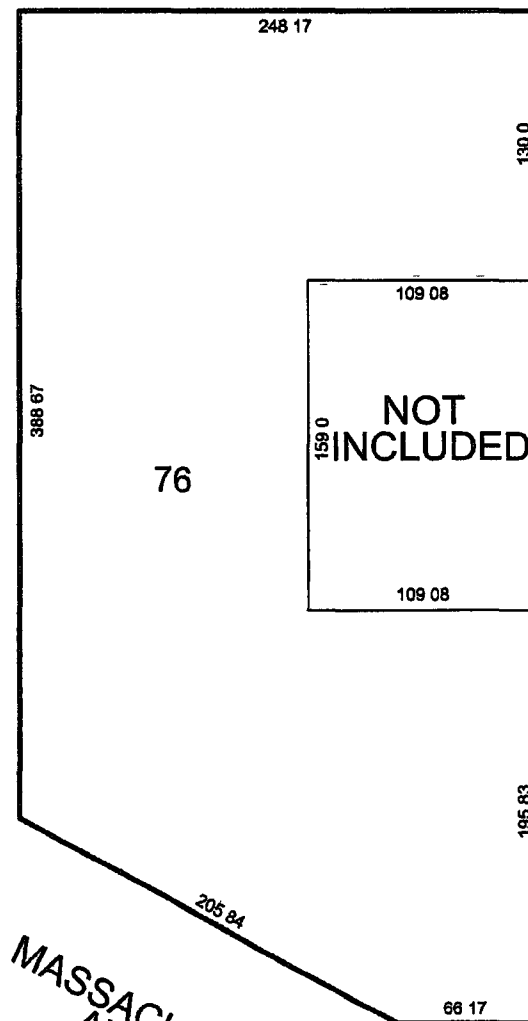
(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue Assessment Administration, and do not necessarily agree with deed description.

C STREET

7TH STREET, N.E.

8TH STREET



ZONING COMMISSION
CASE No. 05-34
EXHIBIT No. 5

MASSACHUSETTS
AVENUE

CONSTITUTION
AVENUE

2005 NOV 11 - 1 PM 4:10

DC OFFICE OF ZONING

RECEIVED