

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



MEMORANDUM

To: Office of Documents and Administrative Issuance

From: Sharon S. Schellin³
Secretary to the Zoning Commission

Date: November 2, 2006

Re: Publication for the Office of Zoning

Please publish the following in the *D C Register* on November 10, 2006

- 1 Z C Notice of Public Hearing (Case No 04-24A);
- 2 Z.C Notice of Public Hearing (Case No 06-32),
3. Z C Notice of Public Hearing (Case No 06-43),
- 4 Z.C. Notice of Proposed Rulemaking (Case No 05-10); and
- 5 Z C. Notice of Final Rulemaking & Order No 05-43 (Case No 05-43).

Item number 5 above is also included on the enclosed diskette in MS Word format

Attachment

ZONING COMMISSION
District of Columbia

CASE NO.

05-43

EXHIBIT NO.

12

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Office of
Documents and
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ZONING COMMISSION

District of Columbia

CASE NO.05-43

EXHIBIT NO.12

RULEMAKING TRANSMITTAL FORM

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

AGENCY: OFFICE OF ZONING

DATE AND TIME RECEIVED

Office of Documents use only

AGENCY REPRESENTATIVE: SHARON SCHELLIN, SECRETARY TO THE ZONING COMMISSION

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

TELEPHONE: (202) 727-0340

TITLE AND DESCRIPTION OF RULES: Text amendments to the Zoning Regulations to include Square 344, 373, and Reservation 174 in the Housing Priority Area of the Downtown Development Overlay District

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed Title 11 (Zoning), Chapter 17, § 1706

FINAL RULES ONLY. Give the D C REGISTER citation and date of publication of the Notice of Proposed Rulemaking for these rules: 53 DCR 5536 DATE: JULY 7, 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, 798), D.C. Official Code § 6-641.01 and 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 OCTOBER 30, 2006

SIGNED:

Robert J. Spagnoletti

PHONE: (202) 442-9777

☒ FINAL ☐ CONDITIONAL NAME: ROBERT J SPAGNOLETTI TITLE: 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, 798), D C Official Code §§ 6-641.01 and 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 J. Schellin
 Secretary to the Zoning Commission

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. 05-43

Z.C. Case No. 05-43

(Text Amendment – 11 DCMR)

**(Text Amendment to include Squares 344, 373, 374, and Reservation 174 in the Housing
Priority Area of the Downtown Development Overlay District)**

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 (2001 ed.)), 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 Section 492 of the District Charter; hereby gives notice of the adoption of the following amendments to Section 1706 of the Zoning Regulations (Title 11 DCMR) to include the property formerly occupied by the old Convention Center within the Housing Priority Area of the Downtown Development Overlay District and to designate the site as being within Housing Priority Area B for the purpose of the combined lot development location requirements of § 1708

The Notice of Proposed Rulemaking which contained the Zoning Commission's proposal to amend § 1706 was published in the *D C Register* on July 7, 2006 at 53 DCR 5536 for a 30-day notice and comment period. No comments were received. The Commission made one, non-substantive change to the text when it took final action, as discussed below.

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

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

Description of Text Amendment

This action amends § 1706.2 to include the subject site (Squares 344, 373, 374, and National Park Service Reservation 174) within the Housing Priority Area, and to refer to a new map showing the expanded Housing Priority Area.

This action also amends § 1706.8 of the Zoning Regulations to include the site within the Downtown District's Housing Priority Area B.

The subject site is zoned DD/C-3-C. The DD/C-3-C classification, without inclusion in a housing priority area, permits a maximum density of 6.5 floor area ratio ("FAR") as a matter-of-right. Including the subject site within Housing Priority Area B permits construction up to 9.5 FAR. Each DD/C-3-C lot located in the Housing Priority Area "must provide or account off-site in a combined lot development, no less than 3.5 FAR of residential use." 11 DCMR § 1706.5(b). A lot located in a Housing Priority sub-area (A, B, or C) may only engage in a combined lot development with a lot located in that same sub-area. 11 DCMR § 1708.1(c).

Relationship to Comprehensive Plan

As noted, the subject site is in the Downtown Development ("DD") overlay and is zoned DD/C-3-C. It is located in the central business district and is immediately adjacent to the southwest corner of Mount Vernon Square. It is bounded by New York Avenue on the north, and 9th, H and 11th Streets on the east, south and west. It contains the former rights of way of 10th and I Streets, N.W.

The DD overlay is applied to the core of the downtown. The purpose of the DD overlay is set forth in §1700.2 of the Zoning Regulations and provides that:

The purpose of the DD Overlay District is to help accomplish the land use and development policies of the Comprehensive Plan relating to the affected Downtown sectors. The adopted planning policies for this area are primarily contained in 10 DCMR, chapter 9, entitled "Downtown Plan Element," and 10 DCMR, chapter 11, entitled "Land Use Element," as amended.

The Comprehensive Plan Generalized Land Use Map identifies the site for a mix of high-density residential and commercial uses along with local public facilities. Inclusion within a housing priority area will allow for flexibility in the allocation of uses through combined lot developments. Including the subject site in Housing Priority Area B will allow for flexibility in the allocation of uses through combined lot developments.

Including the subject site in the Housing Priority Area is not inconsistent with many elements of the Comprehensive Plan and specifically advances the objectives established by the Downtown Plan Element. The Downtown Plan Element of the Comprehensive Plan calls for a

balanced mixture of uses to attract a variety of persons, such as District residents, suburban residents, and out-of-town visitors. The most important uses are retail, hotel, residential, and arts and culture. Although private office space will also be important, the concept of the "Living Downtown" recognizes that special efforts will be needed to attract the other desired uses.

The inclusion of the site in the Housing Priority Area furthers the objectives of the Residential Land Use and Convention Center sections of the Downtown Plan Element by providing opportunity for a significant residential community and by encouraging development of residential, hotels, entertainment, restaurants, shops, and convention-related uses

The proposal also furthers the goals of the Downtown Action Agenda, a report published by the Office of Planning in November, 2000, which lists its first objective as maximizing and concentrating downtown housing, and specifically mentions the inclusion of housing on the old Convention Center site as a core strategy for achieving that objective

Setdown, Public Hearing, and Proposed Action

The Zoning Commission setdown this case for a public hearing at its public meeting held on January 9, 2006

The Commission held a public hearing on this case on June 8, 2006. The Office of Planning testified at the hearing that inclusion of the subject site within the Housing Priority Area would provide the maximum opportunity for housing and design flexibility, and would further many of the goals set for downtown in the Comprehensive Plan, helping to produce a critical mass of residents needed to support healthy retail businesses, and create a safe and vibrant urban center.

At the conclusion of the hearing, the Commission took proposed action to approve the text amendment. The Zoning Commission published a Notice of Proposed Rulemaking in the *D C Register* on July 7, 2006 at 53 DCR 5536 for a 30-day notice and comment period.

The proposed rulemaking was also referred to the National Capital Planning Commission ("NCPC") under the terms of § 492 of the District of Columbia Charter. NCPC, by report to the Office of Zoning on July 5, 2006, determined that there is no adverse impact to the Federal interests in the District.

No other comments were received.

Final Action

The Commission took final action to adopt the rulemaking at its regularly scheduled public meeting on September 11, 2006. No substantive changes were made to the advertised prepared text.

The Zoning Commission deleted a reference in § 1706.8 of the proposed text that stated that Reservation 174 was only included in the Housing Priority Area if the National Park Service transferred jurisdiction to the District of Columbia. The National Park Service transferred jurisdiction to the District of Columbia for convention center purposes in 1979. The Zoning Commission believes that the area should be included in the Housing Priority Area in the event the Park Service agrees to transfer additional authority to the District for its use and/or disposition of the property.

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 and consistent with the purpose of the Zoning Regulations and the Zoning Act.

The Office of the Attorney General has determined that this rulemaking is legally sufficient.

In consideration of the reasons set forth herein, the Zoning Commission hereby **APPROVES** the following amendments to the Zoning Regulations, Title 11 DCMR Deleted wording is shown in strikethrough lettering and added wording is shown **bolded** and underlined.

1. Section 1706 2 is amended to read as follows:

1706 2 The housing requirements and incentives of this section shall be applicable only in the Housing Priority Area that is depicted in Map B **attached to the Office of Planning memorandum dated June 7, 2006** filed in Zoning Commission Case No ~~99-3Z05-43~~, which may be viewed in the Office of Zoning, and that is described by squares in § 1706 8, provided that the transferable development rights provisions of § 1706 3 shall be applicable throughout the DD Overlay District Map B is incorporated by reference.

2. Section 1706 8(b) is amended to read as follows:

1706.8 For the purposes of permitting and governing combined lot developments as provided by § 1708, the Housing Priority Area is divided into three (3) subareas as follows:

(b) Housing Priority Area B, the Mount Vernon Square South area, comprises the DD/C-2-C and DD/C-3-C zoned properties that are located south of Massachusetts Avenue, including squares and parts of squares numbered 247, 283, 284, 316, 317, 342, 343, **344**, 371, 372, **373, 374**, 427, 428, 452, 453, 485, 486, 517, and 529, **National Park Service Reservation 174**, and the commercial and underdeveloped properties in square 247 with an approved plan unit development on or before January 18, 1991, for so long as the planned unit development approval remains valid, and

The Zoning Commission voted to **APPROVE** the proposed rulemaking at the close of the public hearing on June 8, 2006 by a vote of 3-0-2 (Anthony J. Hood, Gregory N. Jeffries, and Michael G. Turnbull to approve; Carol J. Mitten and John G. Parsons not present, not voting)

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

Z.C. NOTICE OF FINAL RULEMAKING & Z.C. ORDER NO. 05-43

Z C. CASE NO. 05-43

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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 RULEMAKING
AND**

Z.C. ORDER NO. 05-43

Z.C. Case No. 05-43

(Text Amendment – 11 DCMR)

**(Text Amendment to include Squares 344, 373, 374, and Reservation 174 in the Housing
Priority Area of the Downtown Development Overlay District)**

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*