

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of Zoning



MEMORANDUM

Office of  
Documents and  
Administrative  
Issuances  
2007 OCT 17 PM 10 49

**To:** Office of Documents and Administrative Issuance

**From:** Sharon S. Schellin *SS*  
Secretary to the Zoning Commission

**Date:** October 17, 2007

**Re:** Publication for the Office of Zoning

Please publish the following in the *D.C. Register* on October 26, 2007:

1. Z.C. Notice of Final Rulemaking & Order No. 06-25;
2. Z.C. Notice of Final Rulemaking & Order No. 06-44;
3. Z.C. Notice of Final Rulemaking & Order No. 07-08A; and
4. Z.C. Notice of Final Rulemaking & Order No. 07-09.

These rulemakings are also included on the attached diskette in MS Word format.

Attachment

ZONING COMMISSION  
District of Columbia

CASE NO. 40-25

EXHIBIT NO. 14

441 4<sup>th</sup> Street, N.W., Suite 200/210-S, Washington, D.C. 20001

Telephone (202) 727-6311

Facsimile (202) 727-6072

E-Mail [dcoz@dc.gov](mailto:dcoz@dc.gov)

Web Site [www.dcoz.dc.gov](http://www.dcoz.dc.gov)

ZONING COMMISSION  
District of Columbia  
CASE NO.06-25  
EXHIBIT NO.14

2007 OCT 17 AM 10 49

## RULEMAKING TRANSMITTAL FORM

TYPE OF RULEMAKING ACTION:		
<input checked="" type="checkbox"/> FINAL RULES	<input type="checkbox"/> PROPOSED RULES	<input type="checkbox"/> EMERGENCY RULES
<input type="checkbox"/> COMBINED		

## DATE AND TIME RECEIVED

Office of Documents use only

AGENCY: OFFICE OF ZONING

AGENCY REPRESENTATIVE: SHARON SCHELLIN

ADDRESS: 441 4<sup>th</sup> Street, N.W., Suite 210 South

TELEPHONE (202) 727-0340

TITLE AND DESCRIPTION OF RULES: ZC CASE NO. 06-25 Text and Map Amendment - Capitol Gateway 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If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed: Title 11 (Zoning) Sections §§ 1601, 1602, 1605, and 1610.

FINAL RULES ONLY: Give the D.C. REGISTER citation and date of publication of the Notice of Proposed Rulemaking for these rules 54 DCR 1692 DATE: February 23, 2007

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

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: JUNE 6, 2007

SIGNED: *Sharon J. Schellin*

PHONE: (202) 442-9777

<input checked="" type="checkbox"/> FINAL	<input type="checkbox"/> CONDITIONAL
---	--------------------------------------

NAME: LINDA SINGER

TITLE: ACTING 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.

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

DATE OF APPROVAL  
OF VOTE:

4-9-07

APPROVAL  
OF ATTEST.

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. 06-25**  
**Z.C. Case No. 06-25**  
**(Map and Text Amendment - 11 DCMR)**  
**(Chapter 16 Capitol Gateway Overlay District)**  
**April 9, 2007**

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 ("NCPC") for a 30-day period of review pursuant to § 492 of the District Charter; hereby gives notice of the adoption of the following amendments to Chapter 16 of the Zoning Regulations (Title 11 DCMR). The map amendment would extend the boundaries of the CG Overlay District (and applicable design guidelines and review provisions) to include portions of Squares 649, 651, 653, and 655, exempts certain of these properties from the 15-foot setback for properties abutting South Capitol Street, and adds areas zoned CG/R-5-E and CG/C-2-C to those CG properties that are precluded from participating in combined lot developments

A Notice of Proposed Rulemaking was published in the *D C Register* ("DCR") on February 23, 2007 at 54 DCR 1692. The Commission took final action to adopt the amendments at a public meeting on April 9, 2007 without changing the proposed text. This final rulemaking is effective upon publication in the *D C Register*.

**Existing Regulations**

On October 28, 2002, the Commission took Final Action to establish the Capitol Gateway (CG) Overlay District, covering portions of the Near Southeast and Southwest (Buzzard Point) areas (Zoning Commission Case No. 96-3/89-1). The CG Overlay is mapped to include an area roughly bounded by M Street to the north, the Anacostia River to the south, Fort McNair to the west, and the Southeast Federal Center site to the east. The CG Overlay:

- Establishes a set of objectives for the area;
- Allows additional density and height to accommodate bonus density for residential development in certain areas;

- Permits combined lot development for the purposes of allocating residential and commercial uses with the Overlay District;
- Permits the transfer of some density within the area from the CG/W-2 District to the CG/CR District (the CR District allows the transfer of density from one lot to another within a square, § 631.3);
- Requires the provision of ground floor retail and a 15-foot setback along M Street, S.E. ;
- Requires the provision of publicly accessible open space along the waterfront via a 75 foot building setback, and
- Establishes mandatory Zoning Commission review of projects fronting M Street SE and within the CG/W-2 District.

The CG Overlay was subsequently amended to accommodate the proposed new Major League baseball stadium (Zoning Commission Order No. 05-08, October 17, 2005) Additional amendments to the Overlay became effective on February 16, 2007 with the publication of a Notice of Final Rulemaking for Zoning Commission Case No. 05-10. Among other things, these amendments extended the Zoning Commission review and approval process and design guidelines to additional areas within the Overlay, including buildings that abut South Capitol Street.

### **Set Down Proceedings**

The Office of Planning ("OP") initiated this rulemaking by filing a report with the Commission. The OP report requested map and text amendments to the Capitol Gateway Overlay ("CG") District provisions of the Zoning Regulations; to expand the boundaries of the CG Overlay; and to provide for setback, driveway restriction, and combined lot provisions.

At its May 25, 2006 special public meeting, the Commission agreed to set down the case for a public hearing.

### **Description of Map and Text Amendments as First Advertised**

OP originally recommended an expansion of the boundaries of the Overlay to include:

- Lot 48 within Square 649 on the north side of M Street, zoned C-3-C;
- those portions of Squares 651 and 653 that are zoned C-2-C, which were rezoned from C-M-1 in 2002 as part of the original CG Overlay case (Z.C. Case No. 96-3/89-1), but were not then mapped as part of the CG Overlay; and
- Square 655, zoned R-5-E.

Because all these properties abut South Capitol Street, and as a result of the text amendments made in Z.C. Case 05-10, all new construction thereon would be subject the design standards and the Commission approval process described at 11 DCMR §§ 1605 and 1610 respectively. OP, however, recommended the following exemptions for properties in Squares 649 and 651:

- Not require a 15-foot setback from South Capitol Street.

The South Capitol Street right-of-way widens on the west side of the street, in front of Squares 649 and 651 (from 130 feet elsewhere to 155 feet in front of these squares), so that these narrow properties are already set back from the centerline of the street by an additional 25 feet. As such, to ensure a more consistent street wall for new development, the 15-foot setback is not recommended for new development within these squares.

- Permit 60% of the façade to be constructed to the property line, since no setback is required;

OP further proposed to add the areas zoned CG/R-5-E and CG/C-2-C to those CG properties that are precluded from participating in combine lot developments.

#### **Relationship to the Comprehensive Plan**

The amendment would not be inconsistent with the Comprehensive Plan or the Comprehensive Plan Generalized Land Use Map and would particularly further the following major themes as outlined in Chapter 1 of the Comprehensive Plan

- (a) Stabilizing and improving the District's neighborhoods*
- (e) Respecting and improving the physical character of the District*
- (f) Preserving and ensuring community input*
- (g) Preserving the historic character of the District*
- (i) Promoting enhanced public safety*

The proposed amendments would also be consistent with the Anacostia Waterfront Initiative ("AWI"), and NCPC initiatives that advocate the provision of a consistent, "monument" character to South Capitol Street.

#### **Public Hearing**

The Commission held a public hearing on this case on November 16, 2006.

At the public hearing, OP described the intent of the proposed map and text amendments, to include those properties south of M Street, S.W. on the west side of South Capitol Street that are not already within the boundaries of the CG Overlay. OP noted that, in response to concerns raised by area residents, the following changes to the amendment were being recommended.

- amend the proposed boundary within Square 655 to include only those properties located between South Capitol Street and the alley and
- clarify that replacement of, or improvements to, an existing rowhouse (located in Squares 653 and 655) would not require Zoning Commission review; and minor vertical (upper story) additions to such rowhouses would also not require the 15-foot setback.

The Anacostia Waterfront Corporation and the District Department of Transportation submitted written comments in favor of the proposal.

The Commission decided to leave open the record for the receipt of additional information and analysis for a period of 14 days, until November 30, 2006.

#### **Proposed Action**

The Commission took proposed action at a properly noticed special public meeting held on January 8, 2007 to adopt the map and text amendment as proposed by the OP, with the amendments proposed by OP at the Public Hearing

The Notice of Proposed Rulemaking was published in the *D C Register* on February 23, 2007 at 54 DCR 1692, for a 30-day notice and comment period.

The proposed rulemaking also was referred to NCPC under the terms of § 492 of the District of Columbia Charter. NCPC, by report dated February 1, 2007, found that the proposed text amendments would not adversely affect the federal interests nor be inconsistent with the Federal Elements of the Comprehensive Plan

No other comments were received.

The Office of the Attorney General has determined that this rulemaking meets its standards of legal sufficiency

#### **Final Action**

At its properly noticed April 9, 2007 public meeting, The Commission took final action to adopt the proposed text amendment. No substantive changes were made to the advertised prepared 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 the Zoning Act.

In consideration of the reasons set forth herein, the Zoning Commission hereby **APPROVES** the following amendments to Chapter 16 of the Zoning Regulations, Title 11 DCMR (added wording is in **bold and underlined**, and deleted wording is shown in ~~strike through~~ lettering):

A. Amend the Zoning Map of the District of Columbia as follows:

1. Rezone from C-3-C to CG/C-3-C Square 649, Lot 48
2. Rezone from C-2-C to CG/C-2-C Square 651, Lots 147 and 148; and Square 653, Lots 14, 15, 52-54, 60-66, 68-70, 75, 111, 810, 811, 827, and 828
3. Rezone from R-5-E to CG/R-5-E Square 655, Lots 124-140

B. Chapter 16, CAPITOL GATEWAY OVERLAY DISTRICT, is amended as follows (new language is shown in bold and underlined text, deleted language is shown with strike through):

1. Section 1600, PREAMBLE, § 1600.1 is amended to add the following to the list of Squares and portions of Squares in the Southwest and Southeast quadrants of the District of Columbia that are included in the CG Overlay District:

**as well as Square 649, Lot 48; Square 651, Lots 147 and 148; and Square 653, Lots 14, 15, 52-54, 60-66, 68-70, 75, 111, 810, 811, 827, and 828; and Square 655, Lots 124-140.**

2. Subsection 1602.1 (d) is amended to read as follows.

(d) The combined lot provisions may not be used to transfer density to or from any property within the **CG/R-5-E, CG/C-2-C**, CG/C-3-C, CG/W-1, CG/W-2, or CG/W-3 Districts; and

3. Section 1605, BUILDINGS, STRUCTURES, AND USES ON SOUTH CAPITOL STREET, is amended as follows:

(a) By amending § 1605.2 is amended to read as follows

1605.2 Each new building or structure located on South Capitol Street shall be set back for its entire height and frontage not less than 15 feet, ~~provided that a minimum of 60% of the street wall shall be constructed on the setback line,~~ **with the exception of a:**

(a) **Buildings within Squares 649 and 651; and**

- (b) Replacement of an existing row dwelling within Squares 653 and 655; or
- (c) Vertical addition to an existing row dwelling within Squares 653 and 655, not extending out into the South Capitol Street right-of-way and not exceeding 50% of the gross floor area of the original row dwelling.

(b) By adding a new § 1605.5 to read as follows.

**1605.5 For each new building or structure located on South Capitol Street, a minimum of 60% of the street-wall shall be constructed on the setback line, with the exception of:**

- (a) Buildings within Squares 649 and 651 where a minimum of 60% of the street-wall shall be constructed to the South Capitol Street property line; and
- (b) Replacement of or an addition to an existing row dwelling within Squares 653 or 655 in accordance with § 1605.2.

4. Section 1610, ZONING COMMISSION REVIEW OF BUILDINGS, STRUCTURES AND USES, § 1610.1 (d) is amended to read as follows:

- (d) On a lot that abuts South Capitol Street, other than renovation or replacement of an existing row dwelling within Squares 653 or 655; or for a minor addition not exceeding 50% of the gross floor area of the original row dwelling structure;

At its public meeting on January 8, 2007, the Zoning Commission **APPROVED** the proposed rulemaking by a vote of 5-0-0 (Carol J. Mitten, Anthony J. Hood, John G. Parsons, Gregory N. Jeffries; and Michael G. Turnbull to approve).

This Order was **ADOPTED** by the Zoning Commission at its public meeting on April 9, 2007 by a vote of 5-0-0 (Carol J. Mitten, John G. Parsons, Anthony J. Hood, Gregory N. Jeffries, and Michael G. Turnbull to adopt)



**Z.C. NOTICE OF FINAL RULEMAKING & ORDER NO. 06-25**

**Z.C. CASE NO. 06-25**

**PAGE 7**

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D C Register*; that is on ~~OCT 26 2007~~

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

**and**

**Z.C. ORDER NO. 06-25**

**Z.C. Case No. 06-25**

**(Map and Text Amendment - 11 DCMR)**

**(Chapter 16 Capitol Gateway Overlay District)**

**April 9, 2007**

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