

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



January 16, 2008

Via E-Mail & U.S. Mail:

Marcel Acosta
Acting Executive Director
National Capital Planning Commission
401 9th Street, N.W., Suite 500
Washington, D.C. 20004

Re: Notice of Proposed Rulemaking – Z.C. Case No. 07-28

Dear Mr. Acosta:

Please find attached a copy of the proposed rulemaking for the above-referenced case.

The proposed rulemaking will be published in the *D.C. Register* on January 25, 2008, for a 30-day comment period. The comment period will end on February 24, 2008. Accordingly, this case will be considered for final action at the Zoning Commission's public meeting scheduled for March 10, 2008.

The proposed decision of the Commission to approve the above-mentioned case is referred to the National Capital Planning Commission (NCPD) for review and comment, pursuant to the District of Columbia Home Rule Act of 1973, as amended, 87 Stat. 790, Pub. L. No. 93-198, D.C. Code Section 1-201, et seq.

If you have any questions, contact me at the Office of Zoning on (202) 727-0340.

Sincerely,

Sharon S. Schellin
Secretary to the Zoning Commission

cc: David W. Levy (via e-mail)
Carlton Hart (via e-mail)

ZONING COMMISSION
District of Columbia

CASE NO. 07-28
EXHIBIT NO. 10

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

Z.C. Case No. 07-28

(Text Amendment – 11 DCMR)

Text Amendments to amend §§ 701.4(q), 701.4(aa), and 721.3(s)

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), hereby gives notice of its intent to amend §§ 701.4(q), 701.4(aa), and 721.3(s) of the Zoning Regulations (Title 11 DCMR).

The proposed text amendments would permit as matter of right uses within the C-1 portion of Square 5912, prepared food shops with more than 18 seats and fast food establishments with no drive-throughs. The text amendments would also exempt within the C-2-B portion of Square 5912, fast food restaurant with no drive-throughs from the requirements of §§ 721.3(s)(1)-(3).

Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The following rulemaking action is proposed (new text is shown **bolded** and underlined):

(1) Section 701.4(q) is amended to read as follows:

- (q) Restaurant, but not including a fast food establishment, or a food delivery service. **A fast food establishment with no drive-through shall be permitted in Square 5912 as a matter of right.**

(2) Section 701.4(aa) is amended to read as follows:

- (aa) Prepared food shop, with no more than 18 seats for patrons and no drive-through **except that no limitation on seats shall apply to a prepared food shop in Square 5912.**

(3) Section 721, Uses as a Matter of Right (C-2), § 721.3(s) is amended to read as follows:

- (s) Fast food establishment or food delivery service, only in a C-2-B or C-2-C District; provided:
 - (1) No part of the lot on which the use is located shall be within twenty-five feet (25 ft.) of a Residence District, unless separated therefrom by a street or alley;
 - (2) If any lot line of the lot abuts an alley containing a zone district boundary line for a Residence District, a continuous brick wall at least six feet (6ft.) high and twelve inches (12 in.) thick shall be constructed and maintained on the lot along the length of that lot line;

- (3) Any refuse dumpsters shall be housed in a three (3) sided brick enclosure equal in height to the dumpster or six feet (6 ft.) high, whichever is greater. The entrance to the enclosure shall include an opaque gate. The entrance shall not face a Residence District; and
- (4) The use shall not include a drive-through.

Subparagraphs (1), (2), and (3) shall not apply to a fast food establishment located in Square 5912.

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, 441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.