

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning

OFFICE OF THE SECRETARY
ODAI



2008 SEP -9 P 1:26

MEMORANDUM

To: Office of Documents and Administrative Issuance
From: Sharon S. Schellin ^{S3}
Secretary to the Zoning Commission
Date: September ⁹ 2008
Re: Publication for the Office of Zoning

Please publish the following in the *D.C. Register* on September 19, 2008:

1. Z.C. Notice of Final Rulemaking & Order No. 07-30.

Attachment

ZONING COMMISSION
District of Columbia
CASE NO. 07-30
EXHIBIT NO. 13

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

Telephone: (202) 727-6311

Facsimile: (202) 727-6072

E-Mail: dcoz@dc.gov

Web Site: www.dcoz.dc.gov

ZONING COMMISSION
District of Columbia
CASE NO.07-30
EXHIBIT NO.13

OFFICE OF THE SECRETARY
ODAJ

RULEMAKING TRANSMITTAL FORM

TYPE OF RULEMAKING ACTION: EMERGENCY RULES
 FINAL RULES ^{SEP 9 2008} 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: 727-0340

TITLE AND DESCRIPTION OF RULES: Zoning Commission Order No. 07-30 (Map Amendment - 11 DCMR)(Marshall Heights rezoning from R-5-A to the R-2 or R-3 Zone Districts)

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed: Title 11 (Zoning) Zoning Map

FINAL RULES ONLY: Give the D.C. REGISTER citation and date of publication of the Notice of Proposed Rulemaking for these rules: 55 DCR 5791 DATE: MAY 16, 2008

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: JULY 15, 2008

SIGNED: *Alan Bergstein*

PHONE: (202) 442-9777

FINAL CONDITIONAL NAME: ALAN BERGSTEIN TITLE: SECTION CHIEF

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. Section 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799 D.C. Official Code § 6-641.01).

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

DATE OF APPROVAL OF VOTE:

7-14-08

APPROVAL OF ATTEST:

Sharon S. 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
ZONING COMMISSION ORDER NO. 07-30
Z.C. Case No. 07-30
(Map Amendment – 11 DCMR)
(Marshall Heights rezoning from R-5-A to the R-2 or R-3 Zone Districts)
July 14, 2008

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 and 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 the adoption of the following amendment to the Zoning Map of the District of Columbia (11 DCMR).

The Zoning Map of the District of Columbia is amended to rezone the following lots presently zoned R-5-A to the following Zone Districts:

Square:	Lots:	Zone District
5341 (all)	Lots 9-14, 29-34, 36-39, 42-45, 805-807, and 810-813.	R-2
5341 E (all)	Lots 1-40 and 802.	R-2
5342 (all)	Lots 1-11, 14-19, and parcel 193/0065.	R-2
5342 E (all)	Lots 3-14, 801, and 802.	R-2
5350 (part)	Lots 2-8, 11, 12, 17-24, 38, 39, 64-67, 72, 102-108, 111, 113, 114, 117-120, 125, 126, 850, 852, 855, 857, 861, and 862.	R-2
5351 (part)	Lots 64, 74, 75, 85, 90, and 866.	R-2
5352 (part)	Lots 31, 41, and 42.	R-2
5359 (part)	Lots 309-318.	R-2
5362 (part)	Lots 61-63, 175-190, 198-205, 816, and 817.	R-2
5287 (all)	Lots 801, 803, and 805.	R-3
5293 (part)	20-33, 47, 48, 803, 805, and 807.	R-3
5294 (all)	Lots 9-11, 13, 23-31, 39-44, 807, 809, and 2001-2036.	R-3
5295 (all)	Lots 1, 2, 20, 21, 39, 812, and 813.	R-3
5296 (all)	Lots 1-4, 20-22, 803, 805, 807, 809, and 810.	R-3
5297 (all)	Lots 801, 803, 805, and 807.	R-3

Square:	Lots:	Zone District
5298 (all)	Lots 3, 13-17, 31, 32, 801, 803, and 805.	R-3
5299 (all)	Lots 3, 4, 7-13, 16-18, and 28-38.	R-3
5300 (all)	Lots 1-8, 12-23, and 25-31.	R-3
5301 (all)	Lots 13-15, 25-27, 31-35, 803, 807, and 809.	R-3
5302 (part)	Lots 10, 25, and 29-32.	R-3
5303 (part)	Lots 4, 5, 13, 16-19, 28, 35-39, and 809.	R-3
5304 (part)	Lots 22 and 31-34.	R-3
5308 (part)	Lots 35-37.	R-3
5309 (part)	Lots 1, 7-9, 13, 20, 28, 39-43, and 800-803.	R-3
5310 (part)	Lots 1-5, 11, 18-21, 25-30, and 35-39.	R-3
5311 (all)	Lots 1-7, 12-18, 22-27, 31-33, 800, and 801.	R-3
5312 (all)	Lots 2, 7-14, 16, 17, 22-27, and 31-36.	R-3
5313 (all)	Lots 1-6, 8, 11-18, 26, 31, and 33-49.	R-3
5314 (all)	Lots 3-8, 11-17, 21-25, 27, 28, 31-33, 800-802, 805, and 806.	R-3
5315 (all)	Lots 3, 6, 8-10, 18-21, 24, 25, 30-33, and 35-39.	R-3
5316 (all)	Lots 1, 2, 5, 6, 11-14, 22, 25, 26, 32-35, 805, 807-810, and 2001-2024.	R-3
5317 (all)	Lots 1, 6, 8, 9, 13, 31-35, 801, 835, and 837.	R-3
5321 (all)	Lots 9, 10, 15, 23-30, 32, 33, 35, and 2001-2054.	R-3
5322 (all)	Lots 6, 7, 22-24, 29, 30, 32-37, and 2001-2024.	R-3
5323 (all)	Lots 5, 6, 9-15, 27-34, 800, and 2001-2032.	R-3
5324 (all)	Lots 6, 16, 20-24, 31-37, 39, 801, and 802.	R-3
5325 (all)	Lots 1, 10-13, 16-19, 24-26, 31, 33, 34, and 802-805.	R-3
5326 (all)	Lots 3-9 and 16-32.	R-3
5327 (all)	Lots 1-5, 8-15, 18, 25, 26, 31, 32, 35-38, and 800.	R-3
5328 (part)	Lots 21-27, 31, and 32.	R-3
5330 (part)	Lots 24, part of 31, and 32.	R-3
5331 (all)	Lots 2, 8-10, 18-23, 32, 33, 800, 801, 803, 804, and 2001-2073.	R-3
5332 (all)	Lots 1-11, 20, 23-26, 30, 33-35, 801, and 802.	R-3
5333 (all)	Lots 1, 2, 18-21, 31-33, 36, and 802.	R-3
5334 (all)	Lots 801 and 802.	R-3
5336 (all)	Lots 36-44.	R-3
5337 (all)	Lots 1-4, 7, 10-14, 17, 18, 800, and 801.	R-3

Square:	Lots:	Zone District
5338 (all)	Lots 2-7 and 800	R-3

Hereafter, these properties shall be referred to as the "Subject Properties." They are located in the Marshall Heights Neighborhood, generally south of East Capitol Street and Central Avenue, S.E.; west of Southern Avenue, S.E.; and on or east of Benning Road, S.E. in Ward 7.

The purpose of this rezoning is to adopt a zoning designation for the Subject Properties that is not inconsistent with the District Elements of the Comprehensive Plan for the National Capital ("Comprehensive Plan") and more consistent with prevailing neighborhood character.

A Notice of Proposed Rulemaking was published in the *D.C. Register* ("DCR") on May 16, 2008, at 55 DCR 5791. The Commission took final action to adopt the amendments at a public meeting on July 14, 2008. This final rulemaking is effective upon publication in the *D.C. Register*.

Setdown Proceeding

The Office of Planning ("OP") initiated this rulemaking by filing a report dated November 9, 2007 with the Commission. The OP report recommended that, consistent with the 2006 Comprehensive Plan, certain properties in the Marshall Heights Neighborhood of Ward 7 be rezoned from R-5-A to R-2 or R-3, to better ensure that any new development is more consistent in form and character with the surrounding neighborhood.

At its regularly scheduled public meeting on November 19, 2007, the Commission considered the petition, and set the case down for a public hearing as a rulemaking case.

Public Hearing

The Commission held a properly noticed public hearing on March 3, 2008 to consider the case.

OP testified in support of the map amendments, noting that the current R-5-A zoning could result in development that is inconsistent with Comprehensive Plan policies and different from the prevailing character of the surrounding neighborhoods. The current R-5-A zoning permits, with Board of Zoning Adjustment approval, multiple dwellings. Infill development sites in the Marshall Heights area have recently been targeted for multiple dwellings within areas that are currently predominantly developed with detached, semi-detached, and row dwellings.

At the public hearing, the Vice-Chair of Advisory Neighborhood Commission ("ANC") 7E testified that the ANC had passed a resolution recommending that the Commission approve this application to rezone properties within their ANC boundaries from R-5-A to R-2 or R-3, noting that the changes are necessary to reduce the number of apartment structures in areas where they are not compatible with the low density character that typifies most of the community.

Relationship to the Comprehensive Plan

The 2006 Comprehensive Plan for the District of Columbia includes specific references to changing the R-5-A zoning in Wards 7 and 8, including Marshall Heights, where that zone would permit new development that is inconsistent with prevailing development patterns. The Future Land-Use Map of the Comprehensive Plan designates the subject lots as low-to-moderate density residential, and the proposed map amendments from R-5-A to R-2 or R-3 would not be inconsistent with those designations.

Great Weight to the ANC

The Commission is required under D.C. Official Code § 1-309.10(d)(3)(A) to give great weight to the affected ANC's written recommendation. No written recommendation was received into the record.

Proposed Action

Immediately following the public hearing on March 3, 2008, the Commission unanimously took proposed action to approve the map amendment.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on May 16, 2008, at 55 DCR 5791 for a 30-day notice and comment period. No comments were received.

The proposed rulemaking also was referred to the National Capital Planning Commission ("NCPC") under the terms of § 492 of the District of Columbia Charter. NCPC, by report dated February 28, 2008, commented that the proposed text amendment would not adversely affect the identified federal interests.

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

Final Action

At its regularly scheduled public meeting of July 14, 2008, the Commission took final action to approve this amendment to the Zoning Map.

Based on the above, the Commission finds that the proposed amendment to the Zoning Map is in the best interests of the District of Columbia, consistent with the intent and purpose of the Zoning Act and Zoning Regulations, and not inconsistent with the Comprehensive Plan.

Vote of the Zoning Commission taken at the conclusion of the public hearing on March 3, 2008 to **APPROVE** the proposed rulemaking: **5-0-0** (Gregory N. Jeffries, Michael G. Turnbull, Anthony J. Hood, Curtis L. Etherly, Jr., and Peter G. May to approve.)

Vote of the Zoning Commission taken at a regularly scheduled public meeting on July 14, 2008 to **ADOPT** the final rulemaking: **5-0-0** (Anthony J. Hood, Curtis L. Etherly, Jr., Gregory N. Jeffries, and Michael G. Turnbull to adopt; Peter G. May to adopt by absentee ballot).

In accordance with the provisions of 11 DCMR § 3028.9, this Order shall become effective upon publication in the D.C. Register, on ~~SEP 19 2008~~.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
AND
ZONING COMMISSION ORDER NO. 07-30
Z.C. Case No. 07-30
(Map Amendment – 11 DCMR)
(Marshall Heights rezoning from R-5-A to the R-2 or R-3 Zone Districts)
July 14, 2008**

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