

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



MEMORANDUM

OFFICE OF THE SECRETARY
DDAI
2008 NOV -6 A 10:35

To: Office of Documents and Administrative Issuance
From: Sharon S. Schellin ^{S3}
Secretary to the Zoning Commission
Date: November 6, 2008
Re: Publication for the Office of Zoning

Please publish the following in the *D.C. Register* on November 14, 2008:

1. Notice of Final Rulemaking & Order No. 08-12 (Case No. 08-12).

Attachment

ZONING COMMISSION
District of Columbia

CASE NO. 08-12

EXHIBIT NO. 9

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.08-12
EXHIBIT NO.9

OFFICE OF THE SECRETARY
DDAI

2008 NOV -6 A 10: 35

RULEMAKING TRANSMITTAL FORM

TYPE OF RULEMAKING ACTION: ☐ EMERGENCY RULES
☒ FINAL RULES ☐ 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. 08-12 (Map Amendment - 11 DCMR) (Ward 8 rezoning from R-5-A to the R-2, R-3, and R-4 Zone Districts)

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed: Zoning Map incorporated in Title 11 (Zoning)

FINAL RULES ONLY: Give the D.C. REGISTER citation and date of publication of the Notice of Proposed Rulemaking for these rules: 55 DCR 9873 DATE: September 19, 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: OCTOBER 23, 2008

SIGNED:

Alan Bergstein

PHONE: (202) 442-9777

☒	FINAL	☐	CONDITIONAL
-------------------------------------	-------	--------------------------	-------------

NAME: ALAN BERGSTEIN

TITLE: SECTION CHIEF,
LAND USE AND PUBLIC
WORKS

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:

10/20/08

APPROVAL
OF ATTEST:

Sharon J. Schellin
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
ZONING COMMISSION ORDER NO. 08-12
Z.C. Case No. 08-12
(Map Amendment – 11 DCMR)
(Ward 8 Rezoning from R-5-A to the R-2, R-3, and R-4 Zone Districts)
October 20, 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 (“NCPC”) 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 incorporated in the Zoning Regulations (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	New Zone
5724 (all)	801	R-2
5761 (part)	15, 16, 40, 41, 800-803	R-2
5763 (part)	806-840, and parcel 219/0142	R-2
5898 (part)	33-42, 45-48, and 55-95	R-2
5899 (all)	16-20, and 24-87	R-2
5900 (part)	30-61, 64-120, and 807	R-2
5920 (part)	70-92, 106-144, and 146-195	R-2
5928 (part)	43-63, 65-90, and 92-119	R-2
5935 (all)	10-21	R-2
5936 (part)	26-48	R-2
5937 (part)	27, 29-34, 38-49, 53-58, 800, 805-808, 810, 811, 822, and 825-826	R-2
5938 (all)	66-78, 86-96, 804, 814, 831-833, 836-838, 840, 842-846, and 848-860	R-2
5939 (all)	13, 14, 75, and 801-804	R-2
5941 (all)	10, and 801-805	R-2
5942 (all)	31, 33, 36, 816-822, and 824-826	R-2
5943 (all)	11, 31-35, 812, 814, 816, 819-821, and 823-828	R-2
5944 (all)	7, 30-37, and 810-813	R-2
5945 (all)	4-7, 25-31, 804, 806, 808, 810, 812, and 813	R-2
5946 (all)	2-9, 16-43, 48-77, 803, 805, 826, 827, and 832	R-2
5957 (part)	16-26, 40-42, 45-63, 67, and 70-98	R-2
5973 (part)	17, and R5A portions of lots 18-20 (these properties are split zoned)	R-2

Square		Lots	New Zone
6093	(part)	1-3, 57-59, 61, 62, 803, 808, and 812	R-2
6094	(part)	3, 4, 31-33, 37-42, 44, and 803	R-2
6118	(part)	5-7, 44, and 9-21	R-2
6119	(part)	2, and 17-20	R-2
6149	(part)	18-27, 40-45, 49, 50, 801, and 802	R-2
6162	(all)	810 and 811	R-2
6163	(all)	32-41, 45, 46, 54-90, 126, 127, 802, 806, 808-817, 828, and 829	R-2
6164	(all)	42-78, 88-97, 124, 823, and 824	R-2
6165	(all)	21-30, 37-40, 43-51, 57, 59, 804-809, and 2001-2008	R-2
6166	(all)	1-4, 11-20, 39, 40, 42-46, 800, and 802-806	R-2
6167	(part)	12-21, 34-42, 52, 53, 800, 801, and 804-806	R-2
6168	(part)	3, 34-36, 41-44, 821, 825-830, 833, 834, 840, and 842-844	R-2
6239	(part)	57-68, 70-72, 74-76, 78-94, 803, 804, 2005-2014	R-2
6239S	(part)	1-4, 6, 9-13, 15, 16, 19-24, 27-29, 34-36, 2001-2008, and 2019-2028	R-2
6240	(part)	65-69, 54-63, and 815	R-2
5726	(part)	27-42	R-3
5727	(all)	4, 5, 43-49, 64-70, 73, 74, 78-83, 92-97, 136, 149-198, 806, 811, 813, 814, and 816	R-3
5728	(part)	17-46, and 50-57	R-3
5729	(all)	39-43, 47, 48, 50-59, and 2001-2004	R-3
5729W	(all)	1-8, 12, and 800-805	R-3
5730	(part)	47, 48, 150, 175-185, 196-199, 200, 201, and 920	R-3
5734	(part)	4-8, 33-36, 803, 811-813, 815, 819, and 820	R-3
5740	(part)	193-197, 201-207, 215-218, 224-231, 235-244, 247-248, 250-253, 256-269, 272, 277-294, 298-304, 309-333, 335-348, 829, 833, 842, and 852	R-3
5755	(part)	26, 27, 38-43, 46-57, 121, 128-137, 140-151, 817, 826, and 835	R-3
5777	(part)	533, 534, 628-630, 711, 805, 806, 809, 810, 824, and 1024	R-3
5778	(part)	82-86, 160, 816, 819, 820, 822, 824, 825, 831-834, 836, 838, and 842	R-3
5824	(all)	51-60, 803, and 804	R-3
5842	(part)	15-21	R-3
5844	(part)	6, 7, 20, and 24-35	R-3
5892	(all)	2-21, 42-114, 120, and 125	R-3
5895	(part)	1-20, 35-46, and 49-56	R-3
5901	(part)	26-29	R-3
5920	(part)	70-92	R-3

Square		Lots	New Zone
5921	(part)	802-833, 835-906, and 919-936	R-3
5922	(all)	92-154	R-3
5923	(all)	12-58	R-3
5981	(all)	1-8	R3
5982	(all)	1-9, 20, and 22-38	R-3
5983	(part)	12, 22-31, 40, 41, 43-50, 808, 811, 815, 816, and 2001-2004	R-3
5984	(part)	11-19, 23, 31-38, 41-50, and 800-804	R-3
5985	(all)	15-26, 35-50, 812, 813, 815, 817, 818, 820, 821, 823, and 824	R-3
5994	(all)	4-48, and 801	R-3
5995	(all)	1, 4, 5, 23-27, 32, 33, 37-70, and 802-805	R-3
5996	(all)	1, 2, 5-12, 23-26, 34-48, 50-54 802, 805, and 806	R-3
5997	(all)	2, 9, 23-36, 39-50 and 801-803, and 805-811	R-3
5998	(all)	801-850	R-3
5999	(all)	2-5, 14, 15, 19-26, 28, 30-41, 805, and 806	R-3
6000	(all)	5-8, 10-24, and 810	R-3
6001	(part)	2-32, 36-45, 50-57, 59, 803, 806, 808-810, 819, and 820	R-3
6116	(all)	1-3, 8, 26-29, 37, 38, 44-52, 55-65, 806, 809, 801, 811, and 813-820	R-3
6117	(part)	1-10, 40-50, 53-57, 809, 812, and 813	R-3
6125	(part)	1-18, and 2001-2005	R-3
6126	(part)	1-29, 31-62, 65, 803, and 2001-2005	R-3
6128	(part)	25, 26, 53-55, 63, 64, 70-73, 77, 808, 813, 815, 816, 818, 822-824, 825-829, and 832-834	R-3
6128N	(part)	36, 37, 42-52, 54, 55, 803, 804, and 807	R-3
6129	(part)	60-63, 71, 83, 84, 800-802, 814-818, 821, 823, 824, and 2001-2005	R-3
6151	(part)	10, 11, 23, 36-41, 803-806, 809, and 811-814	R-3
6153	(all)	3-6, 19, 22-25, 34-40, 60, 63, 64, 70, 72, 73, 78, 79, 802, 804-809, 815, and 2001-2005	R-3
6154	(all)	27, 38-43, 46-49, 64, 69, 803, 805, 809, 811-817, 2001-2028	R-3
6208	(part)	36-44, 47-58, 806, 830, and 831	R-3
6209	(all)	1-18, and 28-31	R-3
6210	(part)	824, 825, 837, and 838	R-3
6211	(all)	1-49	R-3
6212	(all)	1-61	R-3
6213	(all)	1-20	R-3
6249	(part)	801-815, and 887	R-3

Square	Lots	New Zone
6250 (all)	1-16, 19-41, and 803	R-3
6254 (part)	4-27	R-3
6271 (part)	17-26	R-3
6277 (all)	1-36	R-3
5786 (all)	21-24, 28-36, 800, and 801	R-4
5787 (all)	30-41, 808, 812, and parcel 231/0019	R-4
5788 (part)	8-15, 69, and 817	R-4
5790 (part)	15, 16, 21-24, 29-31, 36-38, 801, 802, 821, and 822	R-4
5812 (part)	9, 10, 13-22, 105-116, 800, 805-807, and 2001-2024	R-4
5905 (all)	1-99	R-4
5924 (part)	2-10, 106-112, 125-128, and 133-140	R-4
6123 (part)	1, 2, 13-19, 59-66, 68-73, and 801	R-4
6157 (part)	52, 74, 806, 821, 834-836, and 838-844	R-4
6158 (part)	2-9, 64-79, 81-92, 805, 808, 809, and 810	R-4
6159 (all)	99, 112-122, 128, 129, 805-808, 810-813, 815-899, 932-991, and 993	R-4
6160 (all)	72-83, 86, 87, 89, 872, and 873	R-4

Hereafter, these properties shall be referred to as the “Subject Properties.” They are located in Ward 8, south of the Anacostia River, east of the Potomac River, north of Southern Avenue, and generally west of Good Hope Road / 25th Street, S.E.

The purpose of this rezoning is to adopt zoning designations for the Subject Properties that are not inconsistent with the Comprehensive Plan for the National Capital: District Elements (“Comprehensive Plan”), adopted through the Comprehensive Plan Amendment Act of 2006, effective March 8, 2007 (D.C. Law 16-300), and more consistent with prevailing neighborhood character.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on September 19, 2008, at 55 DCR 9873. The Commission took final action to adopt the amendments at a public meeting on October 20, 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 May 2, 2008 with the Commission. The OP report recommended rezoning certain properties in Ward 8 from R-5-A to the R-2, R-3, and R-4 Zone Districts to better ensure that new development is more consistent with the prevailing character of surrounding neighborhoods.

At its regularly scheduled public meeting on May 12, 2008, the Commission considered the petition, and set the case down for a public hearing as a rulemaking case. The Zoning Commission published a notice of public hearing in the *D.C. Register* on June 13, 2008 at 55 DCR 6445.

Public Hearing

The Commission held a properly noticed public hearing on July 28, 2008 to consider the case.

OP, through a written report submitted into the record and verbal testimony at the hearing, testified in support of the map amendments. OP stated that it studied the areas in Ward 8 currently zoned R-5-A, and found areas where the existing housing types were not consistent with the zoning. OP noted that the R-5-A zoning in these areas could result in development that is inconsistent with Comprehensive Plan policies, and different from the prevailing character and development patterns of the neighborhood. OP stated that it recommended rezoning the Subject Properties to the R-2, R-3, or R-4 Zone District, depending on the prevailing character of the neighborhood and to be consistent with the Comprehensive Plan.

Relationship to the Comprehensive Plan

The map amendments are not inconsistent with the Comprehensive Plan. The Comprehensive Plan includes specific references to changing the R-5-A zoning in Wards 7 and 8 where that would permit new development that is inconsistent with prevailing development patterns. The Future Land-Use Map of the Comprehensive Plan designates the Subject Properties for low to moderate density residential development, and the proposed map amendments from R-5-A zoning to the R-2, R-3, or R-4 Zone Districts conform with those designations.

Great Weight to the Advisory Neighborhood Commission ("ANC")

The Commission is required under D.C. Official Code § 1-309.10(d) to give great weight to the affected ANC's written recommendation. None of the affected ANCs were represented at the public hearing, and none provided a written recommendation.

Proposed Action

Immediately following the public hearing on July 28, 2008, the Commission unanimously took proposed action to approve the map amendment.

The Notice of Proposed Rulemaking was published in the *D.C. Register* on September 19, 2008 at 55 DCR 9873 for a 30-day notice and comment period. No comments were received.

The proposed rulemaking also was referred to NCPC under the terms of § 492 of the District of Columbia Charter. NCPC by report dated August 29, 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 October 20, 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 July 28, 2008 to **APPROVE** the proposed rulemaking: **5-0-0** (Anthony J. Hood, Michael G. Turnbull, Gregory N. Jeffries, Curtis L. Etherly, Jr., and Peter G. May to approve).

Vote of the Zoning Commission taken at a regularly scheduled public meeting on October 20, 2008 to **ADOPT** the final rulemaking: **4-0-0** (Anthony J. Hood, Michael G. Turnbull, Gregory N. Jeffries, and Peter G. May to adopt; Curtis L. Etherly, Jr., not present, not voting).

In accordance with the provisions of 11 DCMR § 3028.9, this Order shall become effective upon publication in the *D.C. Register*, on NOV 14 2008.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
and
ZONING COMMISSION ORDER NO. 08-12
Z.C. Case No. 08-12
(Map Amendment – 11 DCMR)
(Ward 8 Rezoning from R-5-A to R2, R3, or R4)**

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