

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



MEMORANDUM

To: Office of Documents and Administrative Issuance (via-email)
From: Sharon S. Schellin 
Secretary to the Zoning Commission
Date: April 14, 2009
Re: Publication for the Office of Zoning

Please publish the following in the *D.C. Register* on April 24, 2009:

1. Z.C. Notice of Final Rulemaking & Order No. 08-05 (Case No. 08-05);
2. Z.C. Notice of Final Rulemaking & Order No. 08-16/08-16A (Case Nos. 08-16 & 08-16A); and
3. Z.C. Notice of Final Rulemaking & Order No. 08-23 (Case No. 08-23).

Attachment

ZONING COMMISSION
District of Columbia
CASE NO. 08-23
EXHIBIT NO. 9

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: (Text Amendment - 11 DCMR)(Text Amendments to §§ 1706.2 and 1706.8(b) to remove Square 374 from Housing Priority Area B)

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed: Title 11 (Zoning) Sections 1706.2 and 1706.8(b)

FINAL RULES ONLY: Give the D.C. REGISTER citation and date of publication of the Notice of Proposed Rulemaking for these rules: 56 DCR 622 DATE: January 16, 2009

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: MARCH 24, 2009

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.

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

DATE OF
APPROVAL
OF VOTE:

2-23-09

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
Z.C. ORDER NO. 08-23
Z.C. Case No. 08-23
(Text Amendment - 11 DCMR)
(Text Amendments to §§ 1706.2 and 1706.8(b) to remove Square 374 from Housing
Priority Area B)
February 23, 2009

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 for a 30-day period of review pursuant to § 492 of the District of Columbia Charter; hereby gives notice of the adoption of the following amendments to §§ 1706.2 and 1706.8(b) of the Zoning Regulations (Title 11 DCMR).

The first amendment removes the property known as Square 374, Lot 44 from the Downtown Development District Housing Priority Area. Lot 44 is part of the former site of the Washington Convention Center, which was located on approximately 10 acres bounded by New York Avenue, and H, 9th, and 11th Streets, N.W. As a result of the amendment, Lot 44 will not have to provide on-site or account off-site for at least 3.5 FAR of residential uses, but its matter-of-right development will be reduced to 6.5 FAR.

The Zoning Regulations do not expressly identify which lots are included within the Housing Priority Area, but cross-reference a map that does. This map, known as Map B, is incorporated into the Zoning Regulations by § 1706.2. Therefore, that subsection is amended to refer to an updated version of Map B that no longer depicts Lot 44 as being within the boundary of the Housing Priority Area.

The second amendment is a purely technical change to § 1706.8 (b). That provision lists the squares or portions of squares (but not the lots) included within Housing Priority Area, Subarea B. The amendment strikes the references to Squares 344 and 373, which are now part of Square 374.

The Office of Planning ("OP") initiated this rulemaking by filing a report dated July 3, 2008. The Zoning Commission set down the case for a public hearing at its July 14, 2008 public meeting.

The Commission held a public hearing on October 2, 2008. OP testified in support of the petition.

The amendments are not inconsistent with the Comprehensive Plan.

The Commission is required under D.C. Official Code § 1-309.10(d) to give great weight to issues and concerns raised in the written recommendation of an affected Advisory Neighborhood Commission ("ANC"). No ANC submitted a written recommendation in this case.

The Commission took proposed action at the conclusion of the hearing held on October 30, 2008.

A Notice of Proposed Rulemaking was published in the *D.C. Register* ("DCR") on January 16, 2009, at 56 DCR 622. No comments were received.

The proposed rulemaking was referred to the National Capital Planning Commission ("NCP") under the terms of § 492 of the District of Columbia Charter. NCP, through a delegated action dated November 25, 2008, found that the proposed text amendments would not adversely affect the identified federal interests, nor be inconsistent with the Comprehensive Plan for the National Capital.

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

The Commission took final action to adopt the amendments at a public meeting on February 23, 2009. No changes were made to the proposed 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 §§ 1706.2 and 1706.8(b) of the Zoning Regulations, Title 11 DCMR.

Title 11 DCMR, Chapter 17, DOWNTOWN DEVELOPMENT OVERLAY DISTRICT, § 1706 is amended as follows (deleted text is shown with ~~striketrough~~, new text is shown as **bolded** and underlined):

1. Subsection 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~~ **included as information supplemental** to the Office of Planning memorandum dated ~~June 7, 2006~~ **July 3, 2008** filed in Zoning Commission Case No. ~~05-43~~ **08-23**, 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. Paragraph 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;

On October 23, 2009, upon motion of Vice Chairman Jeffries, as seconded by Commissioner May, the Zoning Commission **APPROVED** the petition at the end of the hearing on this case by a vote of **4-0-1** (Anthony J. Hood, Gregory N. Jeffries, Peter G. May, and Michael G. Turnbull to approve; the third Mayoral appointee position vacant, not voting).

On February 23, 2009, upon motion of Chairman Hood, as seconded by Commissioner May, the Zoning Commission **ADOPTED** the Order at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Gregory N. Jeffries, Peter G. May, and Michael G. Turnbull to adopt; William W. Keating, III, not having participated, not voting).

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 APR 24 2009.

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

Z.C. ORDER NO. 08-23

Z.C. Case No. 08-23

(Text Amendment - 11 DCMR)

**(Text Amendments to §§ 1706.2 and 1706.8(b) to remove Square 374 from Housing
Priority Area B)**

February 23, 2009

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