

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
AND
ZONING COMMISSION ORDER NO. 15-09
Z.C. Case No. 15-09
Residents of Lanier Heights & ANC 1C
(Map Amendment @ Squares 2580-2584, 2586W, 2587, and 2589)
July 27, 2016

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01), hereby gives notice of its adoption of amendments to the Zoning Map incorporated by reference in Title 11 DCMR to rezone portions of Squares 2580, 2581, 2582, 2583, 2584, 2586W, 2587, and 2589 from the R-5-B Zone District to the R-4 Zone District.

In addition, the Commission, through a Notice of Final Rulemaking (Notice) published in Part II of the March 4, 2016 edition of the *District of Columbia Register*, adopted a replacement version of Title 11 DCMR, as well as implementing amendments to the Zoning Map, which are to become effective September 6, 2016 (Future Zoning Map Amendments). Among those amendments were that any properties zoned in the R-5-B District would be rezoned to the RA-2 zone. The Commission hereby gives notice of modification to those amendments so that portions of Squares 2580, 2581, 2582, 2583, 2584, 2586W, 2587, and 2589 will be re-designated to the RF-1 zone.

These amendments and modifications shall become effective upon the publication of this notice in the *D.C. Register*.

Procedures Leading to Adoption of Amendments

On April 7, 2015, Denis Suski and residents of Lanier Heights and Advisory Neighborhood Commission (ANC) 1C (Petitioners) submitted a petition requesting a map amendment to rezone the portions of Squares 2580, 2581, 2582, 2583, 2584, 2586W, 2587, and 2589 that are currently zoned in the R-5-B Zone District to the R-4 Zone District. The petition included a letter from the Chair of ANC 1C indicating that at a properly noticed meeting on April 3, 2015, ANC 1C, with a quorum present, voted 6-0 to "join with neighbors in applying for a change in zoning to R-4 for certain properties in Lanier Heights, as more fully set forth in the enclosed Materials." The Petitioners stated the reason for their request was to limit the conversion of row dwellings to multi-unit apartment buildings.

On December 4, 2015, the Office of Planning (OP) submitted a Setdown Report. OP stated that the Comprehensive Plan provides policy guidance that both supports and does not support a more restrictive zoning designation, that the proposed downzoning would have implications on both existing property owners and broader District goals related to housing and land use, and that it is not generally inconsistent with the Comprehensive Plan. OP stated that it therefore supported setting down the petition for a public hearing to allow for further public input. OP further recommended that if the petition was set down for a public hearing, the Commission should also consider a corresponding text amendment to designate existing multi-family buildings or multi-family buildings in the permit process as conforming uses.

At a properly noticed public meeting on December 8, 2014, the Commission voted in favor of setting down the proposed amendment as a rulemaking case. The Commission deferred consideration of the corresponding text amendment recommended by OP.

A Notice of Public Hearing was published in the February 5, 2016, edition of the *D.C. Register* at 62 DCR 1243.

By letter dated February 3, 2016, ANC 1C requested a waiver of the rule requiring it to post a copy of the public hearing notice on the street frontage at each square affected by the rezoning proposal. 11 DCMR § 3014.3. The Commission considered the request at a regularly scheduled public meeting on February 8, 2016, and partially granted it, requiring the Petitioners to either post the public hearing notice on the corner of each block containing an affected property or to mail notices to all affected property owners.

On March 11, 2016, OP submitted its hearing report. The report stated that the main differences between the current R-5-B zoning and proposed R-4 zoning are that the current R-5-B zoning allows multi-family buildings by-right, and allows a taller building height than the R-4 zoning requested by the Petitioners. The report further stated that the Comprehensive Plan provides policy guidance that both supports and does not support the requested more restrictive R-4 zoning designation. The Plan's Generalized Policy Map describes the area as a Neighborhood Conservation area, suggesting that any new development should be compatible with the neighborhood's existing character. The Plan's Future Land Use Map designates the subject properties for Moderate Density Residential, which would not be inconsistent with either an R-4 or an R-5-B Zone District. The proposed downzoning to R-4 would have implications on both existing property owners and on some broader District goals and objectives related to housing and land use. The proposal would be not inconsistent with the policies of the Comprehensive Plan that seek to conserve row house neighborhoods. It could, however, limit the ability of the District to accommodate more residents, which is another important policy goal, in a neighborhood that has been zoned R-5-B for many decades. Finally, OP stated it had discussed possibility of a creating a new custom zone or use of one of the new, but not yet effective RF zones adopted as part of the Future Zoning Map Amendments, to bridge these policy issues, and included an outline of such a zone that could be a compromise between the two sets of objectives, but noted that this general direction of a compromise zone had not been accepted by the Petitioners.

At its March 21, 2016, public hearing, the Commission heard testimony from the Petitioners, OP, and a number of individuals both for and against the proposed rezoning.

At the close of the hearing the Commission left the record open for the Petitioners to provide a report on its public outreach efforts, and for OP to submit a supplemental report. The Commission indicated it would consider proposed action at its April 11, 2016 public meeting.

On March 22, 2016, the Petitioners provided the summary of its community outreach efforts.

OP submitted a supplemental report dated April 4, 2016. The report recommended that the Commission approve the petition to rezone the subject properties from R-5-B to R-4. OP stated that it was persuaded by the testimony of the Petitioners and members of the public that the larger neighborhood contains a significant quantity of apartments that provide a good mix of housing types to address the needs of a growing population, and that the relatively small number of existing rowhouses and flats on the lots subject to this petition add to the use mix and vibrancy of the neighborhood, and should therefore be protected. The report proposed a text amendment that would designate any multi-family dwelling within the rezoning area, or any proposed multi-family dwelling in the permit process as of the date this case was set down as a conforming use, provided that the multiple dwelling may not be expanded in floor area or in number of units.

The report stated that the rezoning would have no impact on the terms of residential leases. The report updated the analysis previously provided for Z.C. Case No. 14-11 on the annual price increases for residential units of different sizes and the ability of the District to accommodate anticipated population growth. Finally, the report suggested that the Commission revise the Future Zoning Map Amendments to re-designate the subject properties from RA-2 to RF-1.

OP submitted a second supplemental report dated April 6, 2016. The report suggested a revision to the text amendment that would designate any multi-family dwelling within the rezoning area, or any proposed multi-family dwelling in the permit process as of the date this case was set down, as a conforming use.

At its regularly scheduled April 11, 2016 public meeting, the Commission voted to take proposed action on the amendment rezoning the subject properties from R-5-B to R-4 on the current zoning map, and to modify the Future Zoning Map Amendments to re-designate subject properties from RA-2 to RF-1, thereby authorizing the publication of a notice of proposed rulemaking and a referral of the proposed amendment to the National Capital Planning Commission (NCPC). The Commission also set down the text amendment proposed by OP in its April 6, 2016 supplemental report as a separate case. This case was assigned Z.C. Case No. 16-08, and will be the subject of a public hearing to be held July 18, 2016.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on May 20, 2016 at 63 DCR 7711.

The following comments were received.

On June 9, 2016, Ronald Baker submitted a comment requesting that instead of the proposed map amendments, the Commission instead should adopt a custom zone that would apply only to the Subject Properties. The custom zone would permit building heights of forty feet (40 ft.) as a matter of right and fifty feet (50 ft.) if approved as a special exception, a twenty-foot (20-ft.) rear set back as a matter of right and fifteen feet (15 ft.) if approved as a special exception, up to three (3) dwelling units as a matter of right and four (4) if approved as a special exception, and a ten-foot (10-foot) maximum “pop back” limit and a larger “pop back” permitted if approved as a special exception.

Comments were received from Brendan Reardon, Sean Ruppert, Jackie Greenbaum, Kimm Sumrall, Metija Jevtic, Susan Subak, Greg Keats, Lou Campanelli, Christopher Montwill, Beck Vissat, Robert Corcoran, Gayle Monkkonen, Larry Pedrick and Sonia Montes de Oca, Michael Maya, Paul Zukerberg, Ken Rubotzky, and John Strayer stating support for Mr. Baker’s proposal. In Mr. Zukerberg’s letter, he also recommended excluding the 1700 block of Lanier Place from the rezoning.

In a letter dated May 12, 2016, the Executive Director of NCPC informed the Commission that, through a delegated action dated April 28, 2016, he found that the proposed map amendment is not inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital.

The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990, (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001)) to give great weight to OP recommendations. The Commission believes that its final determination in this case reflects the recommendation of OP.

The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give “great weight” to the issues and concerns raised in the written report of the affected ANCs, which in this case was ANC 1C’s April 3, 2016 letter joining and incorporating the Petition. To satisfy the great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. The Commission found the Petition to be persuasive.

At a regularly scheduled public meeting on June 27, 2016, the Commission took final action to approve the map amendments.

The Commission considered the comments on the proposed rulemaking notice. With respect to the comments suggesting that the Commission should adopt a customized zone instead of the proposed map amendment, the Commission noted that the proposal had not been considered by OP or the ANC, and that going forward with such a proposal would require a new hearing and proposed rulemaking. At this juncture in the case, the Commission believes it should go forward with the map amendment proposed, particularly in view of the amount of work done by the

community to reach this point of majority consensus. For this same reason, the Commission declined to exclude the 1700 block of Lanier Place from the rezoning.

The Zoning Map is amended as follows:

Rezone the portions of Squares 2580, 2581, 2582, 2583, 2584, 2586W, 2587, and 2589 that are currently zoned in the R-5-B Zone District to the R-4 Zone District.

The Future Zoning Map Amendments adopted by the Notice are modified as follows:

The table that appears in page 30 of the Notice is modified as follows:

The portions of the table that states:

R-4	RF-1
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Is modified to state:

R-4 and those portions of Squares 2580, 2581, 2582, 2583, 2584, 2586W, 2587, and 2589 referenced as R-5-B.	RF-1
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The portion of the table that states:

R-5-B	RA-2
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Is modified to state:

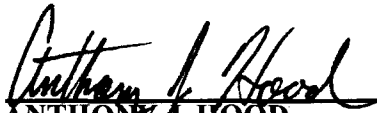
R-5-B except those portions of Squares 2580, 2581, 2582, 2583, 2584, 2586W, 2587, and 2589.	RA-2
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A complete list of the properties included in this map amendment is attached to the end of this notice.

On April 11, 2016, upon the motion of Chairman Hood, as second by Vice Chairperson, the Zoning Commission **APPROVED** the petition at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

On June 27, 2016, upon the motion of Chairman Hood, as seconded by Commissioner Turnbull, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

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 August 26, 2016 for the Current Zoning Map, and September 6, 2016 for the Future Zoning Map Amendments.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING

Square	Lot	Address
2580	0354	1756 Lanier Place, NW
2580	0359	1746 Lanier Place, NW
2580	0360	1744 Lanier Place, NW
2580	0386	1788 Lanier Place, NW
2580	0387	1786 Lanier Place, NW
2580	0417	1730 Lanier Place, NW
2580	0418	2724 Ontario Road, NW
2580	0419	2722 Ontario Road, NW
2580	0420	2720 Ontario Road, NW
2580	0421	2718 Ontario Road, NW
2580	0422	2716 Ontario Road, NW
2580	0432	1740 Lanier Place, NW
2580	0432	1742 Lanier Place, NW
2580	0433	1738 Lanier Place, NW
2580	0434	1736 Lanier Place, NW
2580	0435	1734 Lanier Place, NW
2580	0436	1732 Lanier Place, NW
2580	0449	1784 Lanier Place, NW
2580	0480	1768 Lanier Place, NW
2580	0481	1766 Lanier Place, NW
2580	0482	1764 Lanier Place, NW
2580	0483	1762 Lanier Place, NW
2580	0484	1760 Lanier Place, NW
2580	0485	1758 Lanier Place, NW
2580	0513	1776 Lanier Place, NW
2580	0824	1748 Lanier Place, NW
2580	0840	1752 Lanier Place, NW
2580	0841	1750 Lanier Place, NW
2581	0290	2719 Ontario Road, NW
2581	0291	2721 Ontario Road, NW
2581	0292	2723 Ontario Road, NW
2581	0293	2725 Ontario Road, NW
2581	0294	2727 Ontario Road, NW
2581	0295	2729 Ontario Road, NW
2581	0296	2731 Ontario Road, NW
2581	0297	2733 Ontario Road, NW
2581	0298	2735 Ontario Road, NW
2581	0441	1726 Lanier Place, NW
2581	0442	1724 Lanier Place, NW
2581	0443	1722 Lanier Place, NW
2581	0444	1720 Lanier Place, NW
2581	0445	1718 Lanier Place, NW
2581	0446	1716 Lanier Place, NW
2581	0447	1714 Lanier Place, NW
2581	0464	1704 Lanier Place, NW
2581	0465	1706 Lanier Place, NW
2581	0466	1708 Lanier Place, NW
2581	0467	1710 Lanier Place, NW
2581	0468	1712 Lanier Place, NW
2581	0472	1702 Lanier Place, NW
2581	0473	1700 Lanier Place, NW

Square	Lot	Address
2581	0474	1698 Lanier Place, NW
2581	0475	1696 Lanier Place, NW
2581	0476	1694 Lanier Place, NW
2582	0172	1741 Lanier Place, NW
2582	0173	2803 Ontario Road, NW
2582	2040	2803 Ontario Road, NW
2582	2041	2803 Ontario Road, NW
2582	2042	2803 Ontario Road, NW
2582	2043	2803 Ontario Road, NW
2582	2044	2803 Ontario Road, NW
2582	2045	2803 Ontario Road, NW
2582	0191	2801 18 th Street, NW Unit B
2582	0192	2803 18 th Street, NW Unit 1B
2582	0193	2805 18 th Street, NW Unit 1A
2582	0194	2807 18 th Street, NW Unit 2A
2582	0195	2815 18 th Street, NW Unit 2B
2582	0196	2817 18 th Street, NW Unit 3
2582	0353	2809 Ontario Road, NW
2582	0376	1729 Lanier Place, NW
2582	0377	1731 Lanier Place, NW
2582	0378	1733 Lanier Place, NW
2582	0379	1735 Lanier Place, NW
2582	0380	1737 Lanier Place, NW
2582	0381	1739 Lanier Place, NW
2582	0401	1719 Lanier Place, NW
2582	0402	1717 Lanier Place, NW
2582	0403	1715 Lanier Place, NW
2582	0404	1713 Lanier Place, NW
2582	0405	1711 Lanier Place, NW
2582	0406	1709 Lanier Place, NW
2582	0407	1707 Lanier Place, NW
2582	0408	2805 Ontario Road, NW
2582	0409	2807 Ontario Road, NW
2582	0827	2809 Ontario Road, NW
2582	0828	2819 18 th Street, NW
2583	0334	1779 Lanier Place, NW
2583	0335	1781 Lanier Place, NW
2583	0336	1783 Lanier Place, NW
2583	0337	1785 Lanier Place, NW
2583	2108	1785 Lanier Place, NW Unit 1
2583	2109	1785 Lanier Place, NW Unit 2
2583	2110	1785 Lanier Place, NW Unit 3
2583	2111	1785 Lanier Place, NW Unit 4
2583	0338	1787 Lanier Place, NW
2583	0343	1850 Ontario Place, NW
2583	0344	1848 Ontario Place, NW
2583	0345	1846 Ontario Place, NW
2583	0346	1844 Ontario Place, NW
2583	0347	1842 Ontario Place, NW
2583	0348	1840 Ontario Place, NW
2583	0349	1838 Ontario Place, NW

Square	Lot	Address
2583	0350	1836 Ontario Place, NW
2583	0351	1834 Ontario Place, NW
2583	0352	1832 Ontario Place, NW
2583	0356	1775 Lanier Place, NW
2583	0357	1777 Lanier Place, NW
2583	0361	1882 Ontario Place, NW
2583	0362	1880 Ontario Place, NW
2583	0363	1878 Ontario Place, NW
2583	0389	1892 Ontario Place, NW
2583	0390	1890 Ontario Place, NW
2583	0391	1888 Ontario Place, NW
2583	0392	1886 Ontario Place, NW
2583	0393	1884 Ontario Place, NW
2583	0394	1824 Ontario Place, NW
2583	0395	1822 Ontario Place, NW
2583	0396	1820 Ontario Place, NW
2583	0397	1858 Ontario Place, NW
2583	0398	1856 Ontario Place, NW
2583	0399	1854 Ontario Place, NW
2583	0400	1852 Ontario Place, NW
2583	0414	1812 Ontario Place, NW
2583	0415	1810 Ontario Place, NW
2583	0416	1808 Ontario Place, NW
2583	0437	1830 Ontario Place, NW
2583	0438	1828 Ontario Place, NW
2583	0439	1826 Ontario Place, NW
2583	0450	1818 Ontario Place, NW
2583	0451	1816 Ontario Place, NW
2583	0452	1814 Ontario Place, NW
2583	0454	1745 Lanier Place, NW
2583	0455	1747 Lanier Place, NW
2583	0456	1749 Lanier Place, NW
2583	0457	1751 Lanier Place, NW
2583	0458	1753 Lanier Place, NW
2583	0459	1755 Lanier Place, NW
2583	0460	1757 Lanier Place, NW
2583	0461	1759 Lanier Place, NW
2583	0462	1761 Lanier Place, NW
2583	0486	1769 Lanier Place, NW
2583	0487	1771 Lanier Place, NW
2583	0512	1793 Lanier Place, NW
2583	2097	1793 Lanier Place, NW Unit 1
2583	2098	1793 Lanier Place, NW Unit 2
2583	2099	1793 Lanier Place, NW Unit 3
2583	2100	1793 Lanier Place, NW Unit 4
2583	2101	1793 Lanier Place, NW Unit 5
2583	2102	1793 Lanier Place, NW Unit 6
2583	2103	1793 Lanier Place, NW Unit 7
2583	2104	1793 Lanier Place, NW Unit 8
2583	0856	1767 Lanier Place, NW
2583	0857	

Square	Lot	Address
2584	0310	1841 Ontario Place, NW
2584	0311	1843 Ontario Place, NW
2584	0312	1845 Ontario Place, NW
2584	0313	1847 Ontario Place, NW
2584	0314	1849 Ontario Place, NW
2584	0315	1851 Ontario Place, NW
2584	0316	1853 Ontario Place, NW
2584	0365	1823 Ontario Place, NW
2584	0366	1825 Ontario Place, NW
2584	0367	1827 Ontario Place, NW
2584	0368	1829 Ontario Place, NW
2584	0373	1817 Ontario Place, NW
2584	0374	1819 Ontario Place, NW
2584	0375	1821 Ontario Place, NW
2584	0504	1839 Ontario Place, NW
2584	0505	1837-1839 Ontario Place, NW
2584	0818	1835 Ontario Place, NW
2584	0822	1857 Ontario Place, NW
2584	0823	1855 Ontario Place, NW
2584	0825	1831 Ontario Place, NW
2584	0828	1833 Ontario Place, NW
2587	0489	2922 18 th Street, NW
2587	2001	2922 18 th Street, NW Unit 1
2587	2002	2922 18 th Street, NW Unit 2
2587	2003	2922 18 th Street, NW Unit 3
2587	2004	2922 18 th Street, NW Unit 4
2587	2005	2922 18 th Street, NW Unit 5
2587	0490	2920 18 th Street, NW
2587	0491	2918 18 th Street, NW
2587	0492	2916 18 th Street, NW
2587	0493	2914 18 th Street, NW
2587	0494	2912 18 th Street, NW
2587	0495	2910 18 th Street, NW
2587	0496	2908 18 th Street, NW
2587	0497	2906 18 th Street, NW
2587	2009	2906 18 th Street, NW Unit 1
2587	2010	2906 18 th Street, NW Unit 2
2587	0498	2904 18 th Street, NW
2587	0499	2902 18 th Street, NW
2587	0500	2900 18 th Street, NW
2589	0452	1652 Argonne Place, NW
2589	0453	1650 Argonne Place, NW
2589	0454	1648 Argonne Place, NW
2589	0455	1646 Argonne Place, NW
2589	0456	1644 Argonne Place, NW
2589	0457	1642 Argonne Place, NW
2589	0458	1640 Argonne Place, NW
2589	0459	1638 Argonne Place, NW
2589	0460	1636 Argonne Place, NW
2589	0461	1634 Argonne Place, NW
2589	0462	1632 Argonne Place, NW

Square	Lot	Address
2589	0463	1630 Argonne Place, NW
2589	0464	1628 Argonne Place, NW
2589	0465	1626 Argonne Place, NW
2589	0466	1624 Argonne Place, NW
2589	0467	1622 Argonne Place, NW
2589	0468	1620 Argonne Place, NW
2586W	0806	2800 Adams Mill Road, NW
2586W	0805	2810 Adams Mill Road, NW
2586W	0412	2812 Adams Mill Road, NW
2586W	0411	2814 Adams Mill Road, NW

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Z.C. Case No. 15-09
(Residents of Lanier Heights & ANC 1C)
Map Amendment @ Squares 2580-2584, 2586W, 2587, and 2589
July 27, 2016**

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