

# RULEMAKING TRANSMITTAL FORM

TYPE OF RULEMAKING ACTION: \_\_\_\_\_ EMERGENCY RULES  
☒ FINAL RULES \_\_\_\_\_ PROPOSED RULES \_\_\_\_\_ COMBINED

DATE AND TIME RECEIVED \_\_\_\_\_  
 Office of Documents use only

AGENCY: Zoning Commission for the District of Columbia

AGENCY REPRESENTATIVE: Edward L. Curry

ADDRESS: 1350 Pa. Ave., N.W., Rm. 11 TELEPHONE: 727-6311

TITLE AND DESCRIPTION OF RULES: Amendments to Title 11, DCMR ("Zoning") and the Zoning Map to adopt and map a Neighborhood Commercial District.

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed: No text provisions are being amended or repealed; Zoning Map is being amended.

FINAL RULES ONLY: Give the D.C. REGISTER citation and date of publication of the Notice of Proposed Rulemaking for these rules: 36 DCR 1675 DATE: March 3, 1989

COMPLETE CITATION to the statute, regulation, or other legal authority which specifically authorizes the issuance of the substance of these rules:

D.C. Code Sec 5-413

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.

SIGNED: [Signature] PHONE: 727-6311

☒ FINAL ☐ CONDITIONAL

NAME: Edward L. Curry TITLE: Executive Director

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:

D.C. Code Sec 5-413

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

DATE OF APPROVAL OR VOTE: May 8, 1989

APPROVAL OR ATTEST: [Signature]  
Executive Director  
 TITLE: Zoning Secretariat PHONE: 727-6311

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 THIS NOTICE PUBLISHED AT: 83-7945-P

VOL \_\_\_\_\_ DCR \_\_\_\_\_ DATE: ZONING COMMISSION

ZONING COMMISSION  
 District of Columbia  
 CASE NO. 84-86-26  
 EXHIBIT NO. 582

ZONING COMMISSION OF THE DISTRICT OF COLUMBIA  
NOTICE OF FINAL RULEMAKING  
Cases No. 86-26 and 87-27  
(Connecticut Avenue and Wisconsin Avenue II  
Text and Map Amendment)

The Zoning Commission for the District of Columbia, pursuant to the authority set forth in the Zoning Act (D.C. Code, Section 5-413, et seq.), having held a public hearing as required, hereby gives notice of adoption of amendments to the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning. The amendments establish a Neighborhood Commercial Overlay Zone District, map the Overlay in the Cleveland Park and Woodley Park areas of the District of Columbia, and make other map amendments in Square 2068 in the Cleveland Park area. Notice of proposed rulemaking was published in the D.C. register on March 3, 1989. (36 DCR 1675). These amendments were adopted by the Zoning Commission as a final action at a public meeting held on May 8, 1989. The specific amendments to the Zoning Regulations are as follows:

1. Adopt a new chapter 13 of Title 11 DCMR, to read as follows:

CHAPTER 13        NEIGHBORHOOD COMMERCIAL OVERLAY DISTRICT

1300        PREAMBLE

- 1300.1        The Neighborhood Commercial ("NC") Overlay District is established to preserve and enhance neighborhood shopping areas, by providing the scale of development and range of uses that are appropriate for neighborhood shopping and services.
- 1300.2        The NC Overlay District includes a number of individual overlay zone districts that may be established and mapped from time to time, consistent with the general provisions of this chapter.
- 1300.3        The purposes of the NC Overlay District are the following:
- (a) To encourage a scale of development, a mixture of building uses, and other attributes, such as safe and efficient conditions for pedestrian and vehicular movement, all of which will be as generally required by the comprehensive plan for the national capital;
  - (b) To encourage retention and establishment

of a variety of retail, entertainment, and personal service establishments, predominantly in a continuous pattern at ground level, so as to meet the needs of the surrounding area's residents, workers, and visitors; and

- (c) To limit the maximum permitted height of new buildings so as to encourage a general compatibility in scale between new and older buildings.

1300.4 The provisions of this chapter that apply to the discrete NC Overlay Districts shall reflect the character, scale, and needs of the particular district.

1301 GENERAL PROVISIONS

1301.1 The NC Overlay District is mapped in combination with the underlying commercial zone district and not instead of the underlying district.

1301.2 Except as specifically provided in sub-section 1301.3 of this section and in other provisions of this chapter, all uses, buildings, and structures permitted in accordance with this chapter and the appropriate regulations of the underlying district with which the mapped NC Overlay District is combined, shall be permitted in the combined district.

1301.3 Where there is a conflict between this chapter and the underlying zoning, the more restrictive provisions of this title shall govern.

1302 DESIGNATED AND RESTRICTED USES

1302.1 Any building that occupies or is constructed on a lot in a designated use area within an NC Overlay District shall provide designated retail and service establishments on the ground level according to the requirements of this section and any additional requirements of the particular overlay district.

1302.2 The designated uses for purposes of this section are the following:

- (a) Any use that is permitted as a matter of right in the C-1 District pursuant to sub-sections 701.1 or 701.4, of this title;
- (b) Library;

- (c) Blueprinting or similar reproduction service;
- (d) Film exchange;
- (e) Interior decorating shop;
- (f) Laundry, self service;
- (g) Photographic studio;
- (h) Picture framing studio or shop;
- (i) Tailor shop or valet shop;
- (j) Telegraph office;
- (k) Antique store or shop;
- (l) Auction house;
- (m) Department store;
- (n) Display stand or store for mail order sales;
- (o) Dry goods store;
- (p) Furniture store;
- (q) Home furnishings sales;
- (r) Leather goods store;
- (s) Musical instruments and accessories sales;
- (t) Office supplies and equipment sales;
- (u) Optical goods store;
- (v) Pet shop;
- (w) Precision instrument sales; and
- (x) Theater, including motion picture theater.

1302.3 If the underlying zone district is C-1, the designated uses shall include only those uses that are referenced in paragraphs (a) and (b) of subsection 1302.2.

1302.4 The designated uses listed in sub-section 1302.2 of this section shall occupy no less than 50 percent of the gross floor area of the ground level of the building, subject to the following requirements:

- (a) No more than 20 percent of the ground level floor area shall be devoted to banks, loan offices or other financial institutions, travel agencies, or other ticket offices;
- (b) The ground level floor shall be the floor that is nearest in grade elevation to the sidewalk; and
- (c) In those parts of the affected building or lot other than as delineated in this section, the use provisions of the underlying zone district shall apply.

1302.5 Restaurants, fast food restaurants, delicatessens, carry-outs, and similar eating or drinking establishments shall be subject to the following limitations:

- (a) Such uses shall occupy no more than 25 percent of the linear street frontage within a particular NC Overlay District, as measured along the lots that face designated roadways in the particular district; and
- (b) Except for a fast food restaurant, such uses may be applied to fulfill the requirements of sub-section 1302.4 of this section; Provided, that when such uses are so applied, they shall remain subject to the provisions of paragraph (a) of this sub-section.

1303 LIMITATIONS ON DRIVEWAYS AND CURB CUTS

1303.1 No drive-through accessory to any use shall be permitted in the NC Overlay District.

1303.2 Within the area of the NC Overlay District, notwithstanding the provisions of sub-section 2117.8(c)(1) of this title, no driveway providing access from any designated roadway to required parking spaces or loading berths shall be permitted.

1304 SPECIAL EXCEPTIONS

1304.1 Exceptions from the requirements of this chapter shall be permitted only as a special exception, if approved by the Board of Zoning Adjustment after public hearing, in accordance with the conditions specified in Section 3108 of this title, and subject to the following requirements:

- (a) The excepted use, building, or feature at the size, intensity, and location proposed will substantially advance the stated purposes of the NC Overlay District and the particular NC Overlay District, and will not adversely affect neighboring property, nor be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity;
- (b) Exceptional circumstances exist, pertaining to the property itself or to economic or physical conditions in the immediate area, which justify the exception or waiver;
- (c) Vehicular access and egress are located and designed so as to minimize conflict with principal pedestrian ways, to function efficiently, and to create no dangerous or otherwise objectionable traffic conditions; and
- (d) The Board may impose requirements pertaining to design, appearance, signs, size, landscaping and other such requirements as it shall deem necessary to protect neighboring property and to achieve the purposes of the NC Overlay District and the particular overlay district.

1304.2 This section shall not operate to allow any exception to the height or floor area ratio limits of any NC Overlay District.

1305 PLANNED UNIT DEVELOPMENT GUIDELINES

1305.1 In the NC Overlay District, the matter of right height and floor area ratio limits shall serve as the guidelines for Planned Unit Developments.

1306 CLEVELAND PARK NEIGHBORHOOD COMMERCIAL OVERLAY DISTRICT

1306.1 The Cleveland Park ("CP") Overlay District is applied to a compact geographic area surrounding the Cleveland Park Metrorail Station and within the Cleveland Park Historic District, comprising those lots zoned C-2-A in Squares 2218, 2219, 2222, 2068, 2069, and 2082.

1306.2 In addition to the purposes that are set forth in Section 1300 of this chapter, the purposes of the CP Overlay District are as follows:

- (a) To provide for safe and efficient pedestrian movement by reducing conflicts between pedestrian and vehicular traffic, so as to improve access to retail services, the Metrorail station, and other uses in the area;
  - (b) To encourage compatibility of development with the purposes of D.C. Law 2-144, the Historic Landmark and Historic District Protection Act of 1978; and
  - (c) To provide for retention of existing housing within the CP Overlay District, so as to help meet the need for affordable housing; and to enhance pedestrian activity, safety, and consumer support for businesses in the commercial area.
- 1306.3 For purposes of Section 1302 of this chapter, the designated use area shall include any lot within the CP Overlay District that fronts on Connecticut Avenue or Macomb, Newark, Ordway, or Porter Streets.
- 1306.4 For purposes of sub-section 1303.2 of this title, the designated roadway within the CP Overlay District shall be Connecticut Avenue.
- 1306.5 In the CP Overlay District, no dwelling unit or rooming unit in existence as of October 1, 1987 shall be converted to any nonresidential use, or to a transient use as hotel or inn; provided, however, that this restriction shall not apply to the ground floor of the building, i.e., that floor which is nearest in grade elevation to the sidewalk.
- 1306.6 The maximum permitted height for any building or structure in the CP Overlay District shall be 40 feet.
- 1306.7 The matter of right floor area ratio in the CP Overlay District shall be 2.0, not more than 1.0 of which may be occupied by non-residential uses.
- 1307 WOODLEY PARK NEIGHBORHOOD COMMERCIAL OVERLAY DISTRICT
- 1307.1 The Woodley Park ("WP") Overlay District is applied to a compact geographic area surrounding the Woodley Park/Zoo Metrorail station, comprising

those lots zoned C-2-A in Squares 2202 and 2203,  
and those lots zoned C-2-B in Square 2204.

1307.2 In addition to the purposes which are set forth in Section 1300 of this chapter, the purposes of the WP Overlay District are to provide for safe and efficient pedestrian movement by reducing conflicts between pedestrian and vehicular traffic, so as to improve access to retail services, the Metrorail station, and other uses in the area.

1307.3 For purposes of Section 1302 of this chapter, the designated use area shall include any lot within the WP Overlay District that fronts on Connecticut Avenue, Calvert Street, or 24th Street.

1307.4 For purposes of sub-section 1303.2 of this title, the designated roadway within the WP Overlay District shall be Connecticut Avenue.

1307.5 No hotel, inn, or fast food restaurant shall be permitted in the WP Overlay District.

1307.6 The maximum permitted height of any building or structure in the WP Overlay District shall be as follows:

(a) 40 feet in the WP/C-2-A District; and

(b) 50 feet in the WP/C-2-B District.

1307.7 The matter of right floor area ratio in the WP Overlay District shall be as follows:

(a) In the WP/C-2-A District, the matter of right floor area ratio shall be 2.5, not more than 1.0 of which may be occupied by non-residential uses; and

(b) In the WP/C-2-B District, the matter of right floor area ratio shall be 3.0, not more than 1.0 of which shall be occupied by non-residential uses.

1308 MACOMB-WISCONSIN NEIGHBORHOOD COMMERCIAL OVERLAY DISTRICT

1308.1 The Macomb-Wisconsin ("MW") Overlay District applies to the neighborhood commercial area near and extending from the intersection of Macomb Street and Wisconsin Avenue, N.W., comprising those lots zoned C-1 in Squares 1920 and 1920N.

1308.2 In addition to the purposes that are set forth in



Section 1300 of this chapter, the purpose of the MW Overlay District is to provide for public review of large developments as to their proposed uses, vehicular access, and the scale and massing of proposed buildings, so as to ensure compatibility with and enhancement of the primary neighborhood retail function of the commercial area and to advance the other purposes of this overlay district.

- 1308.3 Within the MW Overlay District, on a lot that has 10,000 square feet or more in land area, construction of a new building or enlargement of the gross floor area of an existing building by 50 percent or more, shall be permitted, subject to review and approval as a special exception by the Board of Zoning Adjustment, pursuant to the same standards and criteria set forth in Section 1304 of this chapter.
- 1308.4 For purposes of Section 1302 of this chapter, the designated use area shall include any lot that fronts on Wisconsin Avenue or Macomb or Newark Streets within the WP Overlay District.
- 1308.5 For purposes of sub-section 1303.2 of this chapter, the designated roadways within the MW Overlay District shall be Wisconsin Avenue and Macomb Street.

2. Amendments to the Zoning Map of the District of Columbia as follows:

- a. Change to CP/C-2-A those portions of Squares 2218, 2219, 2222, 2068, 2069, and 2082 that are currently zoned C-2-A;
- b. Change to WP/C-2-A those portions of Squares 2202 and 2203 that are currently zoned C-2-A;
- c. Change to WP/C-2-B that portion of Square 2204 that is currently zoned C-2-B;
- d. Change to MW/C-1 those portions of Squares 1920 and 1920N that are currently zoned C-2-A; and
- e. Change Lots 72, 73, and 74 in Square 2068 from C-2-A to R-2.