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# MEMORANDUM

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D.C. OFFICE OF ZONING
2002 SEP 17 PM 4:35

**By Hand Delivery**

TO: Alberto Bastida

FROM: Maureen Dwyer
Paul Tummonds

DATE: September 17, 2002

RE: Review of Zoning Commission Case Files

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In a review of Zoning Commission case files in the Office of Zoning we have found a number of cases that are still viewed by the Zoning Commission and the Office of Zoning as active files, even though they have not been acted on by the Zoning Commission or the Office of Planning in a considerable amount of time, they have become moot, or they require a final order from the Zoning Commission. We hope that this memorandum is helpful to you and the Office of Zoning in "cleaning-up" some of these long-standing cases. It is important that the Zoning Commission officially close some of these cases to provide assurances to all members of the public as to the existing zone districts for the property and that there are no potential obstacles to pursuing development opportunities for these properties.

We believe that the following cases should be acted on by the Zoning Commission.

1) Zoning Commission case No. 91-2 – Zoning Map Amendment application of ANC 3E, Citizens for the Preservation of Residential Neighborhoods, and the Tenley and Cleveland Park Emergency Committee (TACPEC) for Squares 1729/1731, 1770 and 1778 from the C-3-A to the C-2-A Zone District (properties adjacent to the Tenleytown Metrorail Station). The last entry in the record of this case is a letter from TACPEC dated November 2, 1993 to the Office of Planning requesting that OP take some action in this case. We believe that it would be prudent for the Office of Zoning to confer with the Office of Planning to see if OP still considers this to be an active case. If not, the Zoning Commission should dismiss this case.

2) Z.C. Case No. 92-1C – PUD application of the West End Trading Company (Blackies) for Lot 76 in Square 51 (22nd and M Streets, N.W.). This application was not pursued by the applicant. Subsequently, this property became part of the PUD and Map Amendment application approved by the Zoning Commission in Order Nos. 855 and 855-A. The Zoning Commission should officially close this case.

ZONING COMMISSION
District of Columbia
Case 91-2
Exhibit 5



ZONING COMMISSION
District of Columbia
CASE NO.91-2
EXHIBIT NO.5

3) Z.C. Case No. 93-6C – PUD application of Scoville Street Corp. for Square 516S (4th, 5th, I Street and Massachusetts Ave., N.W.). No action was taken by the Zoning Commission on this application. The last entry in the record of this case is a letter dated April 14, 1993 from J. Kirkwood White to the Office of Zoning that requested the Zoning Commission to suspend processing of the application until the applicant is able to provide drawings regarding the residential portion of the proposed project. Based on our research of the file, it does not appear that any further plans or documents were provided to the Office of Zoning. Due to the considerable amount of time that has occurred since the last correspondence in this case, it would be appropriate for the Zoning Commission to dismiss this case.

4) Z.C. Case No. 98-2M/97-12M/94-17C – PUD and Zoning Map Amendment application of Washington Development Group for Lots 830 and part of 7000 in Square 560 and Lot 831 in Square 562 and use of the air rights over the Centerleg Freeway. From a review of the record in this case, it does not appear that any action in this case has been pursued by the applicant since 1999. The case was originally filed on August 15, 1997. After numerous delays and postponements, the hearing was continued until June 10, 1999 and the applicant was requested to respond to 11 requests for information in addition to resolving the Control Board issue over whether it had any rights to develop north of Massachusetts Avenue. On June 1, 1999, the applicant requested postponement of the public hearing on the basis that the Control Board had yet to reach a decision as to whether the applicant had control of the site. The applicant stated that it would submit a request for a new hearing date once it had received Control Board approval. The Control Board has now gone out of existence and there has been no further action on the case since June 1, 1999.

5) Zoning Commission Case No. 00-06 – Zoning Map Amendment application of Willco Construction Co. for Lots 41, 48, 49, 50-61, 998-100, 103-105, 131-136, 144-147, 155-160, 161, 167, 815-818, 822-824, & 828-830 in Square 701 from the C-M-2 to the C-3-C Zone District (bounded by N, Half, M and 1st Streets, S.E.). The last entry in the record of this case is a memorandum from Stephen Cochran of OP to Fred Greene, of F.L. Greene Associates, L.L.C. dated June 29, 2000. In this memorandum, Mr. Cochran noted that OP and the representative of the applicant, Mr. Greene, agreed to postpone the set-down hearing for this application until the Fall of 2000. Based on our research, further action has not occurred in this case. We believe that it is prudent for the Office of Zoning to encourage OP to file its set-down report and bring this case to the Zoning Commission for a set-down determination.

6) Zoning Commission Case No. 00-05 – Zoning Map Amendment application of the Welch Family for Lots 40, 63-67, 801-805, 834, 838, 839, 842, 848, 860, 861-866, 872, 873, 876 & 878 in Square 369 from the DD/C-2-A and DD/C-2-C to the DD/C-3-C Zone District (bounded by 9th, 10th, L and M Streets, N.W.). The last information in the file is a letter from Richard Nettler on 1/19/01 stating that they have not been able to schedule a set-down hearing because OP has not filed a report. We believe that it is prudent for the Office of Zoning to encourage OP to file its set-down report and bring this case to the Zoning Commission for a set-down determination.

In addition, you had discussions earlier this year with Paul regarding a corrected Zoning Commission Order, Order No. 909-A, for Zoning Commission Case No. 96-12Z. This case dealt with miscellaneous citywide map amendments and the corrected order addressed necessary changes to Zoning Commission Order No. 909 regarding properties near Benning Road, 18th Street, Oates Street, and Bladensburg Road, NE. This corrected Order should be issued by the Zoning Commission as soon as possible. A copy of the proposed Order No. 909-A is attached for your convenience.

If you have any questions or comments regarding the cases or issues addressed in this memorandum, please feel free to give either of us a call.

Enclosure

Document #: 1270716 v.1

**ZONING COMMISSION ORDER NO. 909-A**
**Case No. 96-12Z**

**(Miscellaneous Citywide Map Amendments)**
**September 30, 1999**

**CORRECTION ODER**

(This Order corrects map amendments affecting Area 5 on Page 3 as denoted in **BOLD** print)

The Zoning Commission for the District of Columbia initiated this case in response to a petition from the Office of Planning (OP) requesting the Commission to amend the Zoning Map of the District of Columbia. Amendments to the Zoning Map are authorized, pursuant to the Zoning Act [Act of June 20, 1938, 52 Stat. 797, as amended, D.C. Code Ann. Section 5-413 (1981)].

The OP petition, filed on October 9, 1996, requested the Zoning Commission to schedule a public hearing to consider map amendments for eleven (11) areas within the District of Columbia. This request comprised the second phase of the land use category of the Zoning Consistency Project work program relative to the Comprehensive Plan Amendments Act of 1994. The overall purpose of this rezoning initiative is to implement provisions of the Comprehensive Plan for the National Capital that require that zoning not be inconsistent with the Plan.

At a regular meeting on October 21, 1996, the Zoning Commission authorized a public hearing on the OP petition. Accordingly, the public hearings were properly noticed for February 24 and April 17, 1997. The hearings were conducted in accordance with the provisions of 11 DCMR 3021.

At the February 24, and April 17, 1997 public hearings, the Commission heard the presentations of the Office of Planning and a number of persons in support of and in opposition to specific proposed map amendments. The hearing on April 17, 1997 was officially noticed and conducted to address supplemental rezonings proposed by OP, to further refine the proposed rezonings in this case overall, and to officially advertise any omissions in the hearing notice for the February 24, 1997 hearing session. The April 17, 1997 hearing session was also a continuation of the February 24, 1997 hearing session.

By reports dated October 9 and December 17, 1996 and February 14 and June 2, 1997, and by testimony at the two public hearing sessions, OP recommended approval of the proposed map amendments as refined and finalized.

Advisory Neighborhood Commission (ANC) 6B (Mr. Gottlieb Simon, Executive Director testified in support of the proposed rezoning for Eighth Street, S.E.

Testimony in opposition to the specific rezoning proposal involving Eighth Street, S.E. was given by Mr. William Frank Reed of the Capital Hill Association of Merchants and Professionals, Ms. Margot Kelly of the Baxlo Business Alliance, and Mr. Yves Fedrigault.

At the close of the second hearing session on April 17, 1997, the Zoning Commission left the record open until May 26, 1997 for the submission of additional information specifically requested.

The Zoning Commission took proposed action to approve a number of the proposed map amendments on June 9, 1997.

The Zoning Commission believes that the concerns and views expressed during the public hearing proceedings have been thoroughly discussed and considered. The Commission further believes that it has accorded all concerned ANCs the "great weight" to which they are entitled.

A Notice of Proposed Rulemaking was published in the D.C. register on August 6, 1999 (46 DCR 6465) and was referred to the Office of the Corporation Counsel (OCC), the Zoning Administrator (ZA), the Office of Planning (OP), the National Capital Planning Commission (NCPC) for review and comment. As a result, a number of refinements were made relative to the original proposed rezonings. All such refinements are reflected in this order as well as in the Notice of Final Rulemaking for this case published separately.

The proposed decision to approve these map amendments was referred to NCPC under the terms of the District of Columbia Self-Government and Governmental Reorganizations Act. In a letter, dated September 10, 1999, NCPC indicated that the proposed map amendments in this case would not adversely affect the federal establishment or other federal interests in the National Capital and would not be inconsistent with the Comprehensive Plan for the National Capital.

The Zoning Commission believes that the map amendments included herein will provide a workable mechanism to effectuate the Comprehensive Plan Amendments Act of 1994 as part of the ongoing Zoning Consistency Project. Furthermore, the Commission believes that its decision to approve the map amendments set forth in this order is in the best interests of the District of Columbia, is consistent with the intent and purpose of the Zoning Regulations, Zoning Map, and Zoning Act, and is not inconsistent with the Comprehensive Plan for the National Capital.

In consideration of the reasons set forth on this order, the Zoning Commission of the District of Columbia ORDERS APROVAL of the following amendments to the Zoning Map of the District of Columbia.

1. **H Street, between North Capitol Street and New Jersey Avenue, NW**

   - Rezoning from C-2-A and R-4 to C-3-C:
     Square 623, Lot 188; and Square 622, part of Lot 839, to a depth of 127 feet from H Street, NW.

2. **Railroad Avenue, V Street, Shannon Place and Chicago Street, SE**

   - Rezone from C-M-1 to C-2-A:
     Square 5784, Lots 898, 899, and 900;
     Square 5783, Lots 1018 and 829
     Square 5785, Lots 800 through 809, 836, 837, and 838.

3. **Hanover Place, NW**

   - Rezone from C-M-1 to C-2-A:
     Square 617, Lots 17, 52, 212, 214, 215, 222, 223, and 800.

4. **Bladensburg Road, NE – Commercial Corridor**

   - Rezone from C-3-A to C-2-A:
     Square 4072, Lots 57 through 60, and 97 through 99; and
     Square 4073, Lots 67 through 67 through 70, 91, and 92

5. **Benning Road, 18th Street, Oates Street, and Bladensburg Road, NE**

   - **Rezone from C-M-1 to C-3-A, C-2-A and R-5-B:**
     **Square 4491, all C-M-1 zoned properties to C-3-A;**
     **Square 4493, all C-M-1 zoned properties to C-3-A;**
     **Square 4494, all C-M-1 zoned properties to C-3-A;**
     **Square 4488, all C-M-1 zoned properties to C-3-A;**
     **Square 4510, all C-M-1 zoned properties to C-2-A;**
     **Square 4507, all C-M-1 zoned properties to R-5-B.**

6. **Rhode Island Avenue Metrorail Station Area – Northwest Quadrant**

   - Rezone from C-2-A and C-M-2 to C-3-A
     Square 3629, Lots 6, 9, and 800 from C-2-A to C-3-A; and
     Square 3629, Lots 2, 3, 5, 7, 808, 811 through 814, and parcel 131/140 from C-M-2 to C-3-A.

**7. Rhode Island Avenue, 9th Street, 10th Street, and Evarts Streets, NE**

- Rezone from C-M-2 to C-2-C and R-2, and from R-2 to R-5-D;
  Square 3841, Lots 65 though 70, 76, and 77 from C-M-2 to R-2;
  Square 3843, Lots 12 through 17, 808, 806, 817, and parcels 132/80, 132/81, 131/210, 131/185, and 131/230 from C-M-2 to C-20C;
  Square 3844, Lots 816 and 820 from R-2 to R-5-D; and
  Square 3844, Lots 70, 71, 800, 815, 821, and 823 from C-M-2 to C-2-C.

This order was adopted by the Zoning Commission at a special public meeting on September 30, 1999, by a vote of 4-0; (Hood, Franklin, Clarens, and Parsons, to adopt).

In accordance with 11 DCMR § 3028, this Order is final and effective upon publication in the D.C. register, that is on _____.

CAROL J. MITTEN
Chairperson
Zoning Commission

JERRILY R. KRESS, FAIA
Director
Office of Zoning