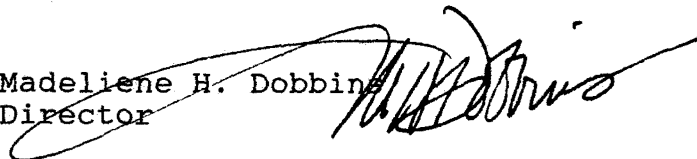


Memorandum

Government of the District of Columbia

TO: Bertrand S. Thomas, Administrator Department,
Office of Documents and Agency, Office: Office of Zoning
Administrative Issuances

FROM: Madeliene H. Dobbins  Date: September 17, 1997
Director

SUBJECT: Publication for the Office of Zoning

Please publish the following in the D.C. Register on
FRIDAY, September 26, 1997:

1. Z.C. Notice of Final Rulemaking
(Case No. 95-4)
2. Z.C. Order No. 821
(Case No. 95-4)
3. Z.C. Order No. 829
(Case No. 97-3C)

RECEIVED BY: _____ DATE: _____

brian/ljp

ZONING COMMISSION
CASE No. 95-4
ZONING COMMISSION
District of Columbia
EXHIBIT No. 118
CASE NO. 95-4
EXHIBIT NO. 118

RULEMAKING TRANSMITTAL FORM

TYPE OF RULEMAKING ACTION: EMERGENCY RULES
 x FINAL RULES PROPOSED RULES COMBINED

AGENCY: ZONING COMMISSION/OFFICE OF ZONING

DATE AND TIME RECEIVED

OFFICE OF DOCUMENTS USE ONLY

AGENCY REPRESENTATIVE: Madeliene H. Dobbins

ADDRESS: 441 4th Street, N.W., Suite 210

TELEPHONE: 202-727-6311

TITLE AND DESCRIPTION OF RULES: Z.C. Case No. 95-4
(Map Amendments -Union Station Area Rezoning)

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed: D.C. Municipal Regulations Title 11, Zoning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: 43 DCR 2441 Date: May 10, 1996

COMPLETE CITATION to the statute, regulation, or other legal authority which specifically authorizes the issuance of the substance of these rules: D.C. Code 5-413 et seq.

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: Aug. 28, 1997

SIGNED: James Randall

PHONE: 202-727-6240

☒ FINAL ☐ CONDITIONAL NAME: James Randall TITLE: Chief, Land Use Sect.

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):

NAME: 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 5-413 et seq.

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

DATE OF APPROVAL Aug. 4, 1997
OR VOTE: Feb. 12, 1996

APPROVAL
OR ATTEST:

Madeliene H. Dobbins
MADELIENE H. DOBBINS

TITLE: Director

PHONE: 202-727-6311

Office of Documents use only:

THIS NOTICE PUBLISHED AT: VOL DCR DATE:

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA NOTICE OF FINAL RULEMAKING

Z.C. CASE NO. 95-4 (MAP AMENDMENTS - UNION STATION AREA REZONING)

The Zoning Commission for the District of Columbia, pursuant to its authority under the Zoning Act (D.C. Code, Sections 5-413 et. Seq.), and having held a public hearing as required pursuant to D.C. Code Section 5-415, hereby gives notice of the adoption of amendments to the District of Columbia Zoning Map. These amendments were enacted by the Zoning Commission pursuant to its authority under the Zoning Act [Act of June 20, 1938, 52 Stat. 797, as amended, D.C. Code Section 5-413 (1981)].

The purposes of the amendments are to ensure that zoning in the Union Station area is not inconsistent with the Comprehensive Plan and is appropriate for that area of the city.

The notice of public hearing containing the proposed amendments was published in the D.C. Register at 42 DCR 4415 (August 18, 1995). The public hearing sessions were held September 25, 1995 and November 9, 1995. The public hearing record was left open until December 29, 1995 to receive additional public comments.

At its public meeting on February 12, 1996, the Zoning Commission took proposed action to adopt the amendments. Following the Commission's action, a notice of proposed rulemaking was published in the D.C. Register at 43 DCR 2441 (May 10, 1996) for a 30-day public notice and comment period. The comment period ended on June 10, 1996. The Zoning Commission did not receive any comments as a result of the publication of its proposed rules.

The specific amendments that were adopted by the Zoning Commission in Order No. 821 as final action are as follows:

1. Rezone to C-3-C those lots now zoned C-M-3, M and C-2-A in the following squares:

Squares 668 through 676
Squares 709 through 713
Square 715.

2. Rezone from M to C-M-3:

Square 747
Square 748 - Lots 8 through 10, 19, 20, 23 through 34, 42 through 46, 810, 811, 818, 821, 822 and a portion of Lot 812

Square 749 - those lots located to the west of the north-south alley closest to 3rd Street, NE.

3. Rezone from M to C-M-1:

Square 748 - Lots 11, 71, 72, 74, 75, 78, 800, 804 through 809, 819, 820 and a portion of Lot 812.

4. Rezone from C-M-1 to C-2-B:

Square 749 - those lots located to the east of the north-south alley located closest to 3rd Street, NE

Square 750 - all lots except Lots 808 through 810, and Lot 128

Square 773 - Lots 4, 87 and 88

Square 774 - those lots located west of the north-south alley closest to 3rd Street, NE

Square 775 - Lots 1, 3, 4, 48, 49, 802, 804, 805, 812, 818 through 820, 826 and 827.

5. Rezone from R-4 to C-2-B:

Square 775 - Lots 22, 23 and 32.

6. Rezone from C-M-1 to C-2-A:

Square 776 - Lots 25 through 27, 29 through 31, 53 and 814 through 817.

7. Rezone from C-1 to C-2-A:

Square 752 - (those lots now zoned C-1) Lots 32, 39 through 44, 801, 804 through 806, 811, 813, 814, 856 and 857.

8. Rezone from R-4 to C-2-A:

Square 753 - Lots 89, 92 through 95, 800 through 802 and the western portion of Lot 827.

9. Rezone from C-M-1 to R-4:

Square 804 - Lots 11 through 15

Square 773 - all lots west of Abbey Place, NE, except Lots 4, 87 and 88

Square 775 - Lots 13 through 16, 29, 33 through 38, 44 through 47 and 801

Square 776 - Lots 21 through 24, and 41 through 50.

10. Rezone from C-2-A to R-4:

Square 777 - Lots 827 through 829, 832 through 838, 841 through 843, 864, 865, 870, 873, 875 and 879.

ZONING COMMISSION ORDER NO. 821
Case No. 95-4
(Map Amendments - Union Station Area Rezoning)
August 4, 1997

The Zoning Commission for the District of Columbia initiated this case in response to a petition from the Office of Planning (OP) to amend the Zoning Map for the District of Columbia by rezoning a large area around Union Station. This area is formally designated in the Comprehensive Plan as the Northeast No. 1/ Eckington Yards Special Treatment Area. 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 petition filed on April 28, 1995, and the accompanying land use and rezoning study of the area, reviewed the land use and zoning patterns in the area to the east, west and north of Union Station and recommended rezoning much of the area to eliminate inconsistencies between zoning and the Comprehensive Plan, as mandated by the Home Rule Act.

At its public meeting on May 23, 1995, the Zoning Commission determined that the rezoning proposal submitted by the Office of Planning presented a sound basis for consideration and authorized a public hearing on the proposed map amendments.

The Office of Planning submitted a supplemental report dated July 24, 1995, requesting the Commission to authorize the inclusion of additional lots and squares for rezoning consideration in this case. At its public meeting on August 7, 1995, the Commission granted OP's request.

Pursuant to proper notice, the Zoning Commission held a public hearing on the amended proposal on September 25, 1995 and November 9, 1995. At the close of the public hearing, the Commission left the record of the case open until December 29, 1995 to receive additional public comments. The public hearing was conducted in accordance with the provisions of 11 DCMR 3021.

The Commission's task in this case is to insure that the proposed map amendments are not inconsistent with the Comprehensive Plan and are appropriate for the area of the city in which they are to be located. In correspondence prior to the hearing, the Commission was urged by CSX Real Property, Inc. to consider rezoning Square 720 (Station Place) from C-M-3 to C-3-C. The Commission declined and noted that the Board of Zoning Adjustment approval for this site was adequate to protect the proposed development.

At the hearing sessions, the Commission heard the presentation of the Office of Planning (OP), the testimony of Councilmembers Harry L. Thomas, Sr. and Harold Brazil, the report and testimony of Advisory Neighborhood Commission 6A, the testimony of a number of law firms representing clients with interests in the Union Station rezoning area. Additionally, the

Commission heard testimony from the Near Northeast Task Force on the Uline Arena, Unified Owners of the 600 Block of 2nd Street, NE, the Free Congress Foundation, the National Learning Center/Capitol Children's Museum, Capitol Cab, the Stanton Park Neighborhood Association, Washington Area Bicycle Association/Coalition for the Metropolitan Branch Trail, LG Enterprises, Union Station Venture, and a number of individual witnesses in support or opposition to one or more of the proposed amendments.

In addition to the testimony presented at the public hearing, the Commission received many items of correspondence from persons and organizations expressing their support or opposition to one or more of the proposed amendments. The case file contains more than 100 exhibits, including correspondence, statements, reports, petitions and requests to testify.

By memorandum and the land use study attached to the report received from the Office of Planning on September 15, 1995, and by testimony presented at the public hearing sessions, the Office of Planning recommended adoption of map amendments proposed for the Union Station area. The OP noted that the proposal is part of the zoning consistency project around the city geared toward ensuring that zoning is not inconsistent with the Comprehensive Plan for the National Capital. The OP stated that during the process of determining what the proposed zoning should be for various sections of the study area, they met with the Advisory Neighborhood Commission, the Stanton Park Community Association and 12 to 16 property owners in the area.

The Office of Planning indicated that the 1994 amendments to the Comprehensive Plan changed the land use designations in the area to allow for office development, mixed residential/commercial development, institutional development, industrial development and other appropriate development for the area. OP noted that the office arrived at six summary goals for the area from the planning process and consultations with people interested in the future of the area. The six summary goals are as follows:

1. Stabilize the boundary between continuing economic development activity near the railroad tracks and the adjacent residential neighborhood.
2. Protect a great majority of existing dwellings in residential areas from conversion to commercial or demolition and redevelopment for commercial projects, so as to maintain the area's housing supply, number of residents, and residential character.
3. Allow a mixture of industrial and commercial uses at medium high density near the railroad tracks north of K Street in order to continue to provide business and job opportunities.
4. Encourage a mixture of residential and commercial uses at moderate to medium density at various locations.
5. Maintain the existing scale of the residential neighborhood and of the building stock in most of the area.

6. Establish suitable intermediate step-down building heights at the edges of the intensive commercial development.

The Commission heard testimony and received correspondence both in support of the proposal and in opposition to the proposal or a portion of the proposal. The following items summarize the salient issues raised in written and oral testimony, and provides the Commission's responses to those issues:

1. There should be a mechanism that would provide for or allow for the green space along the railroad tracks in the Union Station area to be dedicated for use as part of the Metropolitan Branch Trail. The Trail is a proposed bicycle trail in greenway that would run from Silver Spring in Montgomery County to Union Station and the mall with a branch over to West Hyattsville and the West Hyattsville Metro Station. The Commission noted that the Metropolitan Branch Trail is a wonderful idea, but that the zoning process is not the correct forum for dedication of private land to a use such as the Trail. The Commission noted that for many years, at least one Commissioner has indicated that the District would benefit from an overlay or special zoning category known as an open space or park zone.
2. The Congressional Black Caucus Foundation (CBCF) site should retain the C-M-1 zoning so that .5 floor area ratio (FAR) would not be lost and additional review by the Board of Zoning Adjustment (BZA) would not be required as is the case with the proposal for SP-1 zoning on the site. The Commission agrees that the CBCF should be allowed to develop the site as it proposes without losing FAR and having to go before the BZA for approval.
3. The 2nd Street frontage of Squares 752 and 753 (east frontage of 2nd Street from F Street to nearly H Street) should be rezoned from R-4 and C-1 to C-1 and not C-2-A as proposed by the OP. The area should be commercial because the properties cannot be rented as residential properties, however, the C-2-A zoning would allow too much FAR and height. The Commission disagrees with the residents who put forth this issue and agrees with the OP that C-2-A is more appropriate than R-4 or C-1. The Comprehensive Plan designation for the area is mixed use - moderate density residential and low density commercial, and neither the R-4 zone nor the C-1 zone is consistent with that designation; however, C-2-A is generally consistent. Additionally, the C-2-A commercial FAR of 1.5 will accommodate the floor area of most row structures in the area, whereas C-1 would create unnecessary instances of nonconformity.
4. The National Learning Center/Capital Children's Museum property should not be rezoned from C-2-A and C-M-1 to SP-1. The Children's Museum wants to maintain and enhance the residential nature of the area, but at the same time acknowledges the need and desirability for carefully controlled economic development and new commercial opportunities. The Museum would like to remain in its current location,

however, the property is deteriorating and in need of major attention. Options that would allow income for renovations and improvements include the possibility of some commercial development either alone or with another party on the Museum's property. SP-1 would make the property less attractive for development. Besides the change in the allowed development envelope, the SP-1 zone district would require BZA approval, an additional review process. The Commission believes the Children's Museum should be rezoned, but that the SP-1 zone category is not appropriate. After discussions with the Office of Planning and the Office of Zoning, the Commission determined that the Children's Museum site should be readvertised for rezoning to C-3-A and C-3-B.

5. Square 748 which houses the Uline Arena should be rezoned to a strictly commercial zone that would not allow use as a solid waste transfer station. That a buffer area between the residential area and the Uline Arena area should be required. The other side of this issue was raised by L & G Industries who is in favor of retention of the M zone district. After listening to the testimony of the Office of Planning, two Councilmembers, two ANC 6A representatives, L&G Industries, and a multitude of residents in the area who continuously testified about the negative impacts of the L&G Industries solid waste facility at the Uline Arena, the Commission noted that there are businesses other than L&G Industries located in Square 748 and believes that the Comprehensive Plan designation of the area as mixed use PTE/medium density commercial translates into CM which rules out certain heavy industrial uses allowed in the M zone. The Commission also noted that the rezoning of the square did not mean that L&G Industries would move its operations. The Commission believes its decision to zone the portion of the square along the tracks to C-M-3 and the portion along 3rd Street across from the row dwellings to C-M-1 considers the concerns of the residents of the area and the businesses in the area.
6. Square 720 should be rezoned from C-M-3 to C-3-C for purposes of the Station Place development. The Commission disagrees with CSX Real property, Inc. and believes that C-M-3 is appropriate for the square and that the Station Place development is adequately protected by the Board of Zoning Adjustment approval.
7. The Commission noted that the proposal to rezone the triangular area bounded by New York Avenue, North Capitol Street, and Florida Avenue (Squares 668, 669, 670 and 709) from C-M-3 to C-3-C would eliminate a large area of industrial land. The Commission expressed its long-standing concern that industrial land should not continue to be redesignated and rezoned without a study or at least a quick analysis of how much industrial land should be retained for the industrial needs of the City. The Commission noted that the D.C. Council should support a study or analysis to determine the industrial needs of the City, and to determine how much industrial land is left and how much has been redesignated and rezoned over the years.

The Commission notes that Advisory Neighborhood Commission 6A submitted a resolution in support of rezoning the portion of Square 748 containing the Uline Arena to C-2-C and in

support of rezoning the L and M Street area to R-4. The ANC's resolution gave no specific reasons for its determination. However, the Commission notes that the ANC representative presented testimony regarding the adverse impacts on the neighboring properties from the current use of the Uline Arena. The Commission's rationale for rezoning Square 748 to C-M-1 and C-M-3 is stated in Issue No. 5 above.

A notice of proposed rulemaking was published in the D.C. Register on May 10, 1996. The Commission did not receive any comments as a result of the publication of its proposed rules.

The Zoning Commission believes that its decision to approve the map amendments set forth in this order is in the best interest of the District of Columbia, is consistent with the intent and purpose of the Zoning Regulations and the Zoning Act and is not inconsistent with the Comprehensive Plan for the National Capital.

Having discussed and considered the resolution from ANC 6A, the Commission determined that it has accorded ANC 6A the "great weight" to which it is entitled.

The proposed decision to approve the map amendments was referred to the National Capital Planning Commission (NCPG) under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. The NCPG, by report dated May 2, 1996, found that the proposed amendments would not adversely affect the Federal Establishment or other Federal interests in the National Capital, nor be inconsistent with the Comprehensive Plan for the National Capital.

In consideration of the reasons set forth in this order, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the amendments to the Zoning Map. The Specific amendments are contained in the notice of final rulemaking which appears elsewhere in this edition of the D.C. Register.

The Zoning Commission voted on the rezoning initiatives separately at its regular monthly meeting of February 12, 1996. The following order of the voting coincides with the numbering of the rezoning initiatives as delineated in the notice of final rulemaking:

- Rezoning No. 1:** 4-0 (William L. Ensign, Maybelle Taylor Bennett, Jerrily R. Kress and John G. Parsons to approve).
- Rezoning No. 2:** 4-0 (William L. Ensign, John G. Parsons, Maybelle Taylor Bennett and Jerrily R. Kress to approve).
- Rezoning No. 3:** 4-0 (Maybelle Taylor Bennett, John G. Parsons, William L. Ensign and Jerrily R. Kress to approve).
- Rezoning No. 4:** 4-0 (Maybelle Taylor Bennett, John G. Parsons, Jerrily R. Kress and William L. Ensign to approve).

- Rezoning No. 5:** 4-0 (Maybelle Taylor Bennett, John G. Parsons, Jerrily R. Kress and William L. Ensign to approve).
- Rezoning No. 6:** 4-0 (Maybelle Taylor Bennett, John G. Parsons, Jerrily R. Kress and William L. Ensign to approve).
- Rezoning No. 7:** 4-0 (Maybelle Taylor Bennett, William L. Ensign, Jerrily R. Kress and John G. Parsons to approve).
- Rezoning No. 8:** 4-0 (Maybelle Taylor Bennett, William L. Ensign, Jerrily R. Kress and John G. Parsons to approve).
- Rezoning No. 9:** 4-0 (Maybelle Taylor Bennett, John G. Parsons, Jerrily R. Kress and William L. Ensign to approve).
- Rezoning No. 10:** 4-0 (Maybelle Taylor Bennett, John G. Parsons, Jerrily R. Kress and William L. Ensign to approve).

This order was adopted by the Zoning Commission at its public meeting on August 4, 1997, by a vote of 3-0 (Jerrily R. Kress, John G. Parsons and Maybelle Taylor Bennett to adopt; Herbert M. Franklin, not voting, not having participated in the case).

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

zco821/DCR/MHD