Government of the District of Columbia

OFFICE OF ZONING

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MEMORANDUM

TO: Carol J. Mitten, Chairperson
Zoning Commission

THRU: Sharon S. Schellin
Acting Secretary to the Zoning Commission

FROM: Jerrily R. Kress, FAIA
Director

Richard S. Nero, Jr. RSN
Chief, Support Services and Quality Control

DATE: March 14, 2006

RE: ZC Case No. 95-4 (Union Station Area Rezoning) Proposed Correction to ZC Order No. 821

The Office of Zoning (OZ) recently identified an error in the Zoning Map with respect to two lots located in Square 775. These two lots are located on the north side of Square 775, that is clearly identified in the record of Zoning Commission Case No. 95-4 as approved for R-4 zoning. As such, the following amendment to Zoning Commission Order No. 821 is required to correct this error:

Delete Lots 804 and 805 (subject lots), in Square 775 from the lots listed as approved for rezoning from C-M-1 to C-2-B. Add Lots 804 and 805 to the lots listed as approved for rezoning from C-M-1 to R-4.

To eliminate redundancy, this order also deletes references to Lots 14 and 15, in Square 775. Lots 14 and 15 are record lot numbers affixed to the subject lots. The correction is identified in **bold and underlined** under Item 9 on Page 7 of corrected Order No. 821-A (attached). No other changes are made to Order No. 821.

rsn
Attachment
cc: Nyambi Nyambi

ZONING COMMISSION
District of Columbia
CASE NO. 95-4
EXHIBIT NO. 121

ZONING COMMISSION
District of Columbia
CASE NO.95-4
EXHIBIT NO.121

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

ZONING COMMISSION ORDER NO. 821 – A
Z.C. Case No. 95-4
(Map Amendments – Union Station Area Rezoning)
~~March 8, 2006~~ April 20, 2006

CORRECTION ORDER*

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 are 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 are, 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 this 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 the consideration and authorized a public hearing on the proposed map amendments.

The Office of Planning presented 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 help 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.

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* Based on the record of Zoning Commission Case No. 95-4, this Order corrects Zoning Commission Order No. 821 by deleting Lots 804 and 805, in Square 775 from the lots listed as approved for rezoning from C-M-1 to C-2-B, and by adding said lots to the lots listed as approved for rezoning from C-M-1 to R-4. To eliminate redundancy, this order also deletes references to Lots 14 and 15, in Square 775, these lots being record lot numbers affixed to the subject properties. Deleted wording is shown in strikethrough and additions are shown in **bold and underline** under Items 4 and 9 on Page 7. No other corrections are made to Order No. 821.

The Commission's task in this case is to insure that the proposed mad 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 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 the 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 Area, 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 Are 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 the 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 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 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 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 the 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 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 on 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 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 the 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 the 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 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 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 National Capital Planning Commission (NCPC) under the terms of the District of Columbia Self-Government and Government Reorganization Act. The NCPC, 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 following amendments to the Zoning Map:

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, 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 & 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, **804 and 805.**
Square776 - 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.

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 this order:

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 Correction Order was adopted by the Zoning Commission at its public meeting on April 20, 2006, by a vote of _____ (Carol J. Mitten, Anthony J. Hood, Gregory N. Jeffries, John G. Parsons, and Michael G. Turnbull 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

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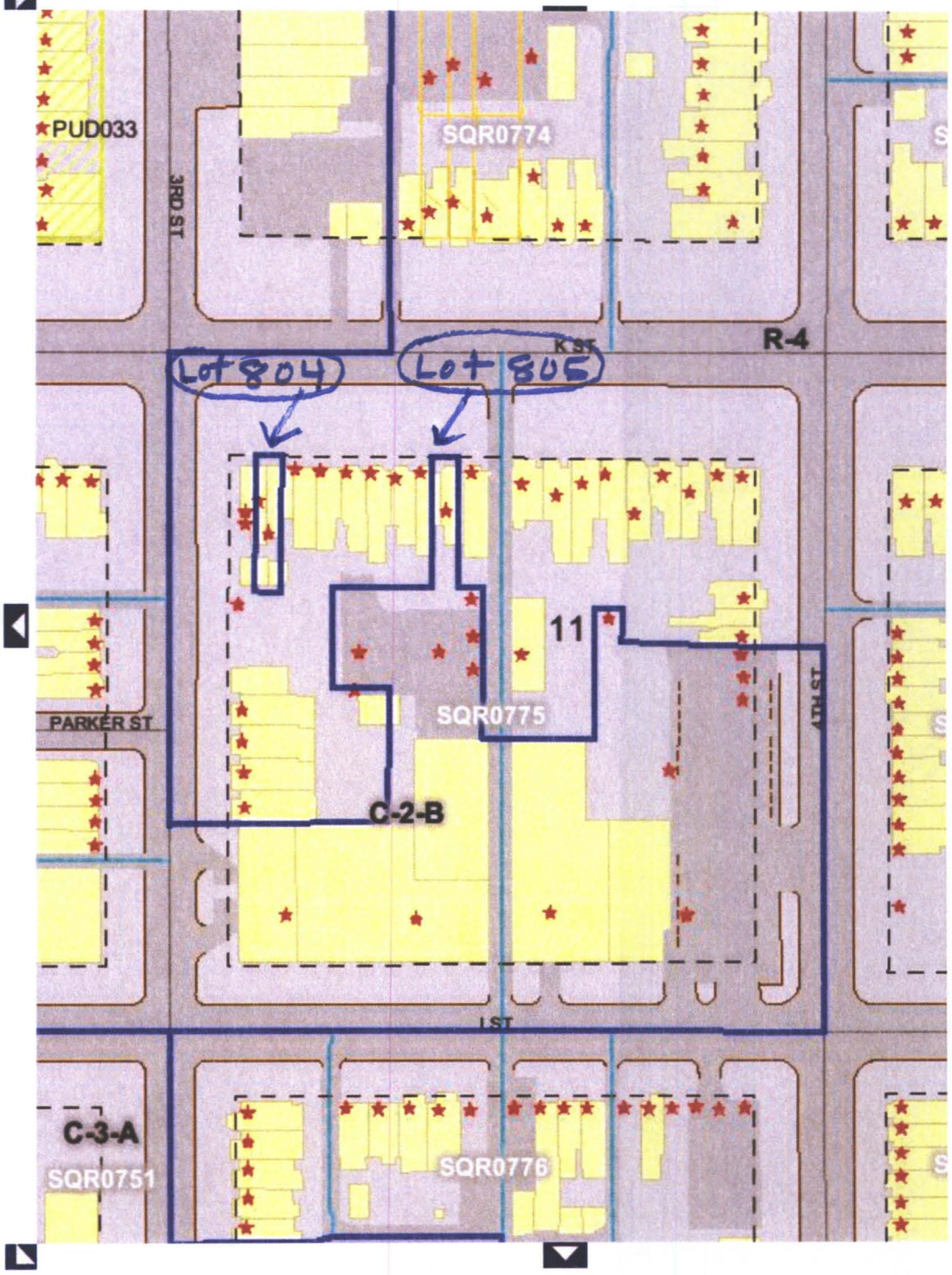
LOTS 804 & 805
INCORRECTY SHOWN
IN THE C-2-B DISTRICT



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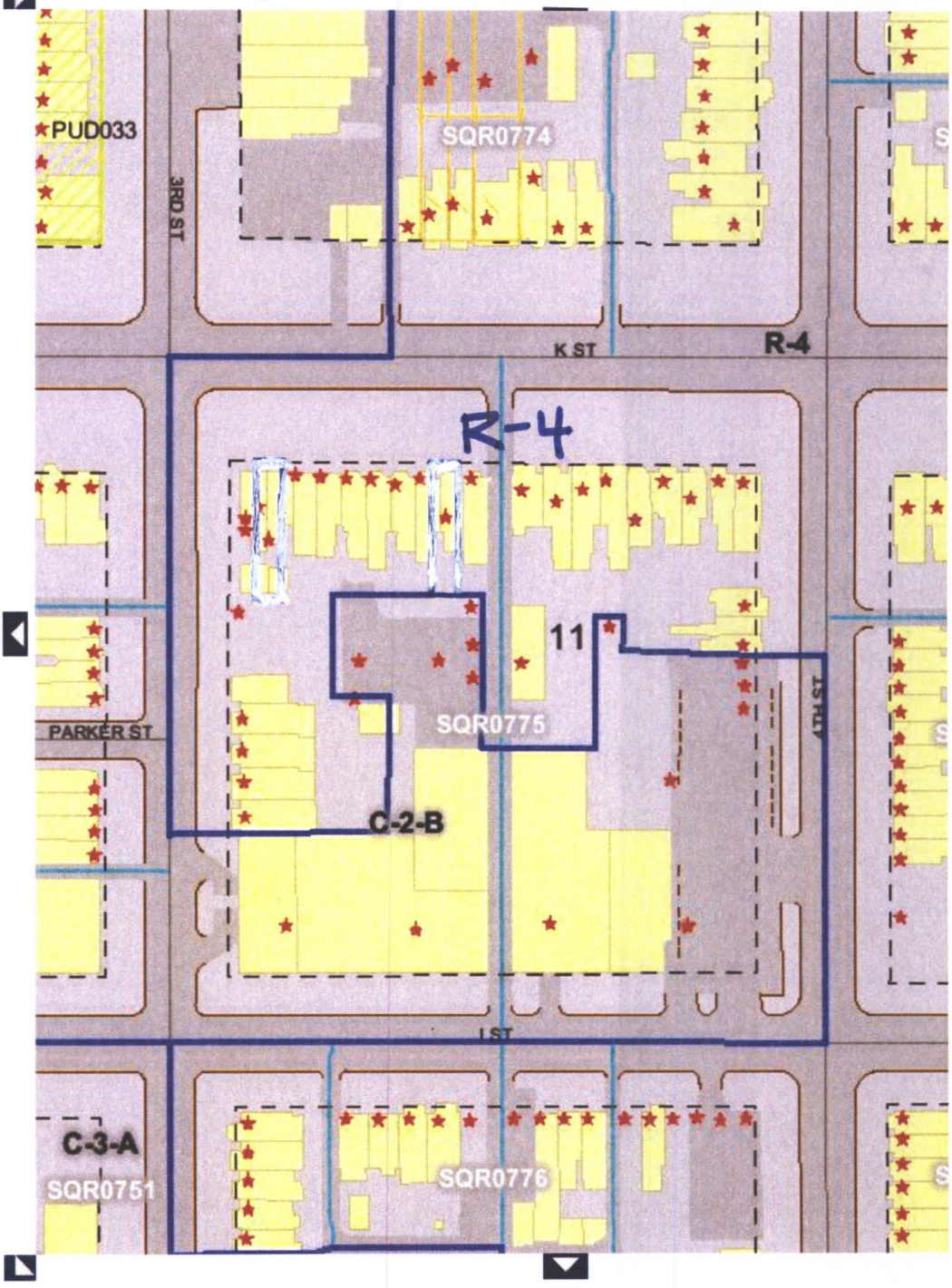
CORRECTED ZONING IN SQUARE 775