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GOVERNMENT OF THE DISTRICT OF COLUMBIA

Office of Zoning



MEMORANDUM

To: Office of Documents and Administrative Issuance

From: Sharon S. Schellin^{SS}
Secretary to the Zoning Commission

Date: January 15, 2008

Re: Publication for the Office of Zoning

Please publish the following in the *D.C. Register* on January 25, 2008:

1. Z.C. Notice of Final Rulemaking & Order No. 06-48;
2. Z.C. Notice of Final Rulemaking & Order No. 07-04; and
3. Z.C. Notice of Final Rulemaking & Order No. 07-24.

Attachment

ZONING COMMISSION
District of Columbia

CASE NO. 00-48

EXHIBIT NO. 48

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ZONING COMMISSION

District of Columbia

CASE NO.06-48

EXHIBIT NO.48

2008 JAN 15 AM 11: 33

RULEMAKING TRANSMITTAL FORM

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

DATE AND TIME RECEIVED

AGENCY: OFFICE OF ZONING

Office of Documents use only

AGENCY REPRESENTATIVE: SHARON SCHELLIN

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

TELEPHONE: (202) 727-0340

TITLE AND DESCRIPTION OF RULES: Map and text amendments to create a new Overlay District, the Georgia Avenue Commercial Overlay District ("GA").

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed: Title 11 (Zoning) Chapter 13, new §§ 1327 through 1331 being added.

FINAL RULES ONLY: Give the D.C. REGISTER citation and date of publication of the Notice of Proposed Rulemaking for these rules: 54 DCR 005275 DATE: NOVEMBER 9, 2007

COMPLETE CITATION to the statute, regulation, or other legal authority which specifically authorizes the issuance of the substance of these rules: Section 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799), D.C. Official Code § 6-641.01.

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: DECEMBER 5, 2007

SIGNED: [Signature]

PHONE: (202) 442-9777

[x] FINAL

[] CONDITIONAL

NAME: LINDA SINGER

TITLE: ATTORNEY GENERAL

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. Section 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799), D.C. Official Code § 6-641.01.

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

DATE OF APPROVAL OF VOTE:

12/10/07

APPROVAL OF ATTEST:

[Signature: Sharon J. Schellin] Secretary to the Zoning

TITLE: Commission

PHONE: (202) 727-0340

Office of Documents use only:

THIS NOTICE PUBLISHED AT:

VOL:

DCR:

DATE:

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING**

and

Z.C. ORDER NO. 06-48

Z.C. Case No. 06-48

**(Text and Map Amendments to Establish and Map
the Georgia Avenue Commercial Overlay District)**

December 10, 2007

The Zoning Commission for the District of Columbia (the "Commission"), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01, *et seq.*); having held a public hearing and thereafter having referred the proposed amendments to the National Capital Planning Commission ("NCPC") for a 30-day period of review as required by § 492 of the District Charter D.C. Official Code § 6-641.03); hereby gives notice of the adoption of amendments to the Zoning Map of the District of Columbia and of new §§ 1327 through 1331 of the Zoning Regulations for the District of Columbia ("DCMR" Title 11). The text amendments establish the Georgia Avenue Commercial Overlay District ("GA") and the map amendments include within the new Overlay C-2-A and C-3-A properties along the Georgia Avenue, N.W. corridor from Kenyon Street, N.W. to Varnum Street, N.W. The Commission took final action to adopt the amendments at a public meeting held on December 10, 2007. No changes were made to the text contained within the Notice of Proposed Rulemaking published in the November 9, 2007 edition of the *D.C. Register* ("DCR"). The specific amendments to the zoning map and text appear at the conclusion of this order.

This final rulemaking is effective upon publication in the *D.C. Register*.

Description of Text Amendment

The Commission initiated this rulemaking in response to a petition from the Office of Planning to advance objectives identified in the *Georgia Avenue – Petworth Metro Station Area and Corridor Plan*, which recommended the establishment of an overlay district to stabilize and encourage redevelopment.

Design requirements incorporated in the GA Commercial Overlay District are intended to improve the pedestrian experience on the street. Generally, they are designed to provide more openness between the pedestrians and buildings, direct access into individual businesses, and minimization of solid, windowless walls.

The GA Overlay sets guidelines for development review through the PUD and special exception processes. Development on any lot containing 12,000 square feet or more is required to obtain special exception approval. Any lot containing at least 10,000 square feet may pursue a planned unit development.

The Overlay also prohibits uses that are not viewed as contributing to an enhanced pedestrian environment, such as those that sell or service motor vehicles.

Description of Map Amendment

This map amendment applies the overlay's provisions to all C-2-A and C-3-A zoned properties along the Georgia Avenue, N.W. corridor between Kenyon Street, N.W. and Varnum Street, N.W.

Relationship to 2006 Comprehensive Plan

The GA Overlay was designed in conformance with the 2006 amendments to the District Elements of the Comprehensive Plan for the National Capital ("Comprehensive Plan"). The 2006 Generalized Policy Map shows the areas along Georgia Avenue, between Kenyon Street, N.W. and Newton Place, N.W., and between Quincy Street, N.W. and Varnum Street, N.W., as a "Main Street Mixed Use Corridor," with the area between Newton Place and Quincy Street as a "Multi-Neighborhood Center."

The Overlay would further the goals of the 2006 Comprehensive Plan in the Land Use, Transportation, Economic Development, and Urban Design elements by discouraging automobile-oriented uses, creating additional shopping opportunities, and establishing design guidelines for new construction. It would also further the goals of the Mid-City Area Element and the Rock Creek East Element by encouraging redevelopment of vacant lots and rehabilitation of abandoned structures, and by providing a framework to guide future development strategies to enhance the quality of life along the corridor.

Public Hearing

A Notice of Public Hearing was published in the *D.C. Register* on May 25, 2007, at 54 *DCR* 5275, setting a hearing date for July 19, 2007. On June 25, 2007, Councilmember Jim Graham requested a postponement of the public hearing until October 2007 to allow the neighborhood additional time for preparation and an opportunity to meet and discuss the issues with the new director of the Office of Planning.

A Notice of Rescheduled Public Hearing was published in the *D.C. Register* on July 27, 2007, at 54 *DCR* 7213, setting a new hearing date for October 25, 2007.

The Office of Zoning received 24 comments on the proposed amendments, all recommending adoption of the Overlay. Residents, business owners, and representatives from community organizations also spoke in favor of the map and text amendments.

One letter received by the Office of Zoning, from Councilmember Jim Graham, expressed concern with the use of the word “primarily” in § 1329.1(f), which listed, as a prohibited use, a “[L]iquor store or other similar establishment which primarily sells alcoholic drinks for off-premises consumption.” Councilmember Graham was concerned that the word “primarily” would be difficult for the Zoning Administrator to interpret and apply. His letter suggested that the language of § 1329.1(f) be changed to reference an establishment where “the sale of alcoholic beverages constitutes no more than 15% of the total volume of gross receipts on an annual basis.”

At the conclusion of the October 25, 2007 public hearing, the Commission took proposed action on the proposed map and text amendments as advertised except for the provision that was the subject of the Councilmember’s correspondence. While the Commission agreed that the potential for ambiguity needed to be addressed, the Commission decided against the use of a particular percentage to create a threshold of prohibited use. Instead, the Commission changed the language of proposed § 1329.1(f) to just “liquor store.” This simpler, clearer language will avoid the uncertainty associated with the word “primarily.”

Proposed Rulemaking

A Notice of Proposed Rulemaking was published in the *D.C. Register* on November 9, 2007, at 54 *DCR* 5275. No comments were received.

The proposed amendments were referred to the National Capital Planning Commission (“NCP”) pursuant to § 492 of the District of Columbia Charter. NCP by report to the Office of Zoning on November 29, 2007, determined that there is no adverse impact to the Federal interests in the District.

The Office of the Attorney General has determined that this rulemaking meets its standards of legal sufficiency.

Final Action

At its regularly scheduled public meeting on December 10, 2007, the Zoning Commission took final action to approve the map and text amendments as proposed, with no changes to the proposed test. No other changes were made to the text as published in the *D.C. Register*, in the Notice of Proposed Rulemaking.

Based on the above, the Commission finds that the proposed amendments to the Zoning Regulations and Zoning Map are in the best interests of the District of Columbia,

consistent with the purposes of the Zoning Regulations, and not inconsistent with the Comprehensive Plan for the National Capital.

In consideration of the reasons set forth herein, the Zoning Commission hereby **APPROVES** the following actions:

A. Amend the Zoning Map of the District of Columbia as follows:

1. Rezone from C-2-A to GA/C-2-A:

- Square 2892, Lots 98, 102, 103, 104, 105, 114, 804, 805, 806, 875, 879, 903, 904, 909, 910, 911;
- Square 2893, Lots 54, 68, 69, 70, 71, 91, 92, 93, 94, 95, 96, 97, 828, 830, 875, 879, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062;
- Square 2894, Lots 61, 75, 76, 89, 90, 898, 911;
- Square 2909, Lots 24, 25, 38, 39, 40, 64, 65, 66, 70, 812, 813;
- Square 2910, Lots 33, 34, 35, 40, 805;
- Square 3026, Lots 45, 46, 47, 48, 805, 807, 808, 809;
- Square 3034w, Lots 1, 801, 802;
- Square 3039, Lots 118, 119, 120, 135, 822, 823, 848;
- Square 3040, Lots 105, 106, 107, 130;
- Square 3041, Lots 25, 26, 27, 28, 29, 53, 54; and
- Square 3042, Lots 28, 29, 801, 807, 809.

2. Rezone from C-3-A to GA/C-3-A:

- Square 2895, Lots 123, 124, 125, 134, 135, 136, 137, 822, 824, 825, 826, 830, 831;
- Square 2897, Lots 54, 55, 56, 131, 132, 133, 134, 135, 136, 137, 145, 147, 808, 841;
- Square 2898, Lot 47;
- Square 2900, Lots 820, 821, 822;
- Square 2905, Lots 30, 809;
- Square 2906, lots 88, 846, 848, 849;
- Square 3027, Lots 24, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 74, 77, 78, 81, 82, 813, 814;
- Square 3028, Lots 39, 40, 51, 52, 53, 54, 55, 809, 818;

- Square 3029, Lots 12, 18, 19, 20, 25, 805, 806;
- Square 3030, Lots 805, 806;
- Square 3031, Lots 233, 805, 806;
- Square 3032, Lots 28, 29, 30, 31, 32, 150, 803, 832, 839;
- Square 3033, Lots 81, 82, 83, 89, 827; and
- Square 3038, Lots 54, 61, 62, 63, 64, 65, 94, 834, 2009, 2010, 2011, 2053.

- B. Title 11 DCMR (Zoning) is amended by adding new §§ 1327 through 1331 to Chapter 13, "Neighborhood Commercial Overlay District."

1327 GEORGIA AVENUE COMMERCIAL OVERLAY DISTRICT

1327.1 The Georgia Avenue Commercial (GA) Overlay District applies to all properties zoned C-2-A and/or C-3-A along both sides of Georgia Avenue, N.W., from the north side of the intersection of Georgia Avenue and Kenyon Street to the south side of the intersection of Georgia Avenue and Varnum Street.

1327.2 The provisions of the GA Overlay shall not apply to public schools.

1327.3 In addition to the purposes in § 1300, the purposes of the GA Overlay District are to:

- (a) Implement the objectives of the Georgia Avenue – Petworth Metro Station Area and Corridor Plan, approved by the Council of the District of Columbia on July 7, 2006 (Res. 16-686; 53 DCR 5444);
- (b) Implement the goals of the Great Streets Framework Plan for 7th Street – Georgia Avenue, published by the District Department of Transportation and dated 2006;
- (c) Encourage additional residential uses along the Georgia Avenue corridor;
- (d) Encourage improved commercial uses;
- (e) Provide uniform building design standards;
- (f) Set guidelines for development review through PUD and special exception proceedings; and

- (g) Encourage vertically-mixed uses (ground floor commercial and residential above) within a quarter mile of the Georgia Avenue – Petworth Metrorail Station along Georgia Avenue, from Park Road to Shepherd Street.

1328 DESIGN REQUIREMENTS (GA)

- 1328.1 The design requirements of §§ 1328.2 through 1328.11 shall apply to any lot in the GA Overlay District for which a building permit was applied for after December 11, 2006.
- 1328.2 Buildings shall be designed and built so that not less than seventy-five percent (75%) of the street wall at the street level shall be constructed to the property line abutting the street right-of-way. Buildings on corner lots shall be constructed to all property lines abutting public streets.
- 1328.3 In the GA/C-2-A Zone District, seventy percent (70%) lot occupancy shall be permitted for mixed use buildings that include residential use.
- 1328.4 On-grade parking structures with frontage on Georgia Avenue, N.W. shall provide not less than sixty-five percent (65%) of the ground level frontage as commercial space.
- 1328.5 Each building on a lot that fronts on Georgia Avenue, N.W. shall devote not less than fifty percent (50%) of the surface area of the street wall at the ground level to entrances to commercial uses or to the building's main lobby, and to display windows having clear or clear/low emissivity glass. Decorative or architectural accents do not count toward the fifty percent (50%) requirement.
- 1328.6 Security grilles over windows or doors shall have no less than seventy percent (70%) transparency.
- 1328.7 Each commercial use with frontage on Georgia Avenue, N.W. shall have an individual public entrance directly accessible from the public sidewalk.
- 1328.8 Buildings shall be designed so as not to preclude an entrance every forty feet (40 ft.) on average for the linear frontage of the

building, excluding vehicular entrances, but including entrances to ground floor uses and the main lobby.

1328.9 The ground floor level of each building or building addition shall have a uniform minimum clear floor-to-ceiling height of fourteen feet (14 ft.).

1328.10 Buildings subject to § 1328.9 shall be permitted an additional five feet (5 ft.) of building height over that permitted as a matter-of-right in the underlying zone.

1328.11 Notwithstanding 11 DCMR § 2116.2, off-street surface parking shall be permitted in rear yards only.

1329 USE PROVISIONS (GA)

1329.1 The following uses are prohibited within the GA Overlay District:

- (a) Automobile and truck sales;
- (b) Automobile laundry;
- (c) Boat or marine sales;
- (d) Any use that includes a Drive-through;
- (e) Gasoline service station;
- (f) Liquor store;
- (g) Pawn shop;
- (h) Repair garage;
- (i) Storage facilities; and
- (j) Surface parking lot.

1330 SPECIAL EXCEPTION (GA)

1330.1 The following uses are permitted by special exception within the GA Overlay District regardless of whether the use is permitted as a

matter of right in the underlying zone, pursuant to §§ 3104 and 1304.

- (a) Fast food establishments including any within twenty-five feet (25 ft.) of a Residence District, subject to the additional criteria contained in § 733.
- (b) Construction of a building on a lot that has twelve thousand square feet (12,000 ft.²) or more in land area.
- (c) Enlargement, by fifty percent (50%) or more, of the gross floor area of a building located on a lot that has twelve thousand square feet (12,000 ft.²) or more of land area.

1330.2

Exceptions from the design requirements of the Georgia Avenue Commercial Overlay District, as set forth in § 1328, shall be permitted as a special exception if approved by the Board of Zoning Adjustment in accordance §§ 1304 and 3104 and subject to the criteria below.

- (a) The architectural design of the project shall enhance the urban design features of the immediate vicinity in which it is located;
- (b) Vehicular access and egress shall be located and designed so as to encourage safe and efficient pedestrian movement, minimize conflict with principal pedestrian ways, function efficiently, and create no dangerous or otherwise objectionable traffic conditions;
- (c) Parking and traffic conditions associated with the operation of a proposed use shall not significantly affect adjacent or nearby residences; and
- (d) Noise associated with the operation of a proposed use shall not significantly affect adjacent or nearby residences.

1330.3

The Board may impose requirements pertaining to design, appearance, massing, landscaping, and other such factors as it deems necessary to protect neighboring property and to achieve the purposes of the Georgia Avenue Overlay District.

1331 PLANNED UNIT DEVELOPMENT PROVISIONS (GA)

1331.1 A planned unit development (PUD) in the GA Overlay District shall be subject to the following provisions in addition to those of Chapter 24 of this Title:

- (a) Any additional height and floor area above that permitted as a matter-of-right in the underlying zone shall be for residential use only;
- (b) The minimum area included within the proposed PUD, including the area of public streets or alleys proposed to be closed, shall be a total of ten thousand square feet (10,000 ft.²).

The Zoning Commission voted to **APPROVE** the proposed rulemaking during its public hearing of October 25, 2007, by a vote of **4-0-1** (Gregory N. Jeffries, Michael G. Turnbull, Curtis L. Etherly, Jr., and John G. Parsons to approve; Anthony J. Hood, not present, not voting).

The Zoning Commission, at its public meeting of December 10, 2007, **ADOPTED** this Order by a vote of **4-0-1** (Gregory N. Jeffries, Michael G. Turnbull, Curtis L. Etherly, Jr., and John G. Parsons (by absentee ballot) to adopt; Anthony J. Hood, having not participated, not voting).

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 **JAN 25 2008**

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING**

and

Z.C. ORDER NO. 06-48

Z.C. Case No. 06-48

**(Text and Map Amendments to Establish and Map
the Georgia Avenue Commercial Overlay District)**

December 10, 2007

The full text of this Zoning Commission order is published in the "Final Rulemaking" section of this edition of the *D.C. Register*.