

**DEPARTMENT OF HUMAN SERVICES
INCOME MAINTENANCE ADMINISTRATION**

NOTICE OF FINAL RULEMAKING

The Acting Director of the Department of Human Services (DHS), pursuant to the authority set forth in Mayor's Reorganization Plan No. 3 of 1986, section 502(e)(2) of Title V of the Omnibus Budget Support Act of 1995, effective September 26, 1995 (D.C. Law 11-52; D.C. Official Code § 4-205.52(d)), and Mayor's Order 97-53, dated March 19, 1997, hereby gives notice of adoption of the following amendments to sections 5814 of Chapter 58 (Temporary Assistance for Needy Families) and 6600.4 of Chapter 66 (Interim Disability Assistance) and by adding a new chapter 72 (Standards of Assistance and Payment Levels in Public Assistance Programs) of the District of Columbia Municipal Regulations (DCMR). No comments were received and no changes have been made to the text of the proposed rules published in the *D.C. Register* on May 12, 2006 (53 DCR 3982-3984). These rules will become effective upon publication in the *D.C. Register*.

CHAPTER 58 TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

5814 INCOME DISREGARDS

Section 5814.5 of Chapter 58 is amended by deleting the existing paragraph and replacing it with the following amended paragraph:

5814.5 After application of these disregards in subsection 5814.4, the remaining income shall be compared to the Standard of Assistance for a family unit. The Standard of Assistance shall be defined as specified in the District of Columbia Public Assistance Act of 1982, as amended. If less than the Standard of Assistance, the income shall be compared to the payment standard. The pay standard shall be defined as specified in the District of Columbia Public Assistance Act of 1982, as amended. The payment levels set forth in Chapter 72 of Title 29 DCMR shall apply to payments made after June 30, 2006.

CHAPTER 66 INTERIM DISABILITY ASSISTANCE

6600 PURPOSE

Section 6600.4 of Chapter 66 is amended by deleting the existing paragraph and replacing it with the following amended paragraph:

6600.4 The monthly grant shall be the same as that for a family size of one (1) or two (2) under the TANF Program as set forth in section 552 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law § 4-101; D.C. Official Code § 4-205.52(c)), as amended. The payment levels set forth in Chapter 72 of Title 29 shall apply to payments made after June 30, 2006.

Title 29 DCMR is amended by adopting a new Chapter 72:

CHAPTER 72 STANDARDS OF ASSISTANCE AND PAYMENT LEVELS IN PUBLIC ASSISTANCE PROGRAMS

7200 STANDARDS OF ASSISTANCE AND PAYMENT LEVELS

7200.1 For the purposes of payments under TANF (D.C. Official Code § 205.52), POWER (D.C. Official Code §4-205.78), General Assistance for Children (D.C. Official Code § 4-205.05a) and Interim Disability Assistance (D.C. Official Code § 4-204.07), effective July 1, 2006, the District of Columbia’s payments levels are adjusted as set forth § 7200.2.

7200.2 Pursuant to D.C. Official Code § 4-205.52(d), the payment levels set forth in this subsection shall apply to public assistance payments made after June 30, 2006.

Family Size	Standards of Assistance	Payment Level
1	\$450	\$257
2	560	\$320
3	712	\$407
4	870	\$498
5	1,002	\$573
6	1,178	\$674
7	1,352	\$773
8	1,494	\$855
9	1,642	\$940
10	1,786	\$1,021
11	1,884	\$1,077
12	2,024	\$1,158
13	2,116	\$1,210
14	2,232	\$1,276
15	2,316	\$1,324
16	2,432	\$1,391
17	2,668	\$1,525
18	2,730	\$1,561
19	2,786	\$1,593

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

and

Z.C. ORDER NO. 06-25

Z.C. Case No. 06-25

(Map and Text Amendment - 11 DCMR)

(Chapter 16 Capitol Gateway Overlay District)

April 9, 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, as amended; D.C. Official Code § 6-641.01); having held a public hearing as required by § 3 of the Act (D.C. Official Code § 6-641.03); and having referred the proposed amendments to the National Capital Planning Commission ("NCPC") for a 30-day period of review pursuant to § 492 of the District Charter; hereby gives notice of the adoption of the following amendments to Chapter 16 of the Zoning Regulations (Title 11 DCMR). The map amendment would extend the boundaries of the CG Overlay District (and applicable design guidelines and review provisions) to include portions of Squares 649, 651, 653, and 655; exempts certain of these properties from the 15-foot setback for properties abutting South Capitol Street; and adds areas zoned CG/R-5-E and CG/C-2-C to those CG properties that are precluded from participating in combined lot developments

A Notice of Proposed Rulemaking was published in the *D.C. Register* ("DCR") on February 23, 2007 at 54 DCR 1692. The Commission took final action to adopt the amendments at a public meeting on April 9, 2007 without changing the proposed text. This final rulemaking is effective upon publication in the *D.C. Register*.

Existing Regulations

On October 28, 2002, the Commission took Final Action to establish the Capitol Gateway (CG) Overlay District, covering portions of the Near Southeast and Southwest (Buzzard Point) areas (Zoning Commission Case No. 96-3/89-1). The CG Overlay is mapped to include an area roughly bounded by M Street to the north, the Anacostia River to the south, Fort McNair to the west, and the Southeast Federal Center site to the east. The CG Overlay:

- Establishes a set of objectives for the area;
- Allows additional density and height to accommodate bonus density for residential development in certain areas;
- Permits combined lot development for the purposes of allocating residential and commercial uses with the Overlay District;
- Permits the transfer of some density within the area from the CG/W-2 District to the CG/CR District (the CR District allows the transfer of density from one lot to another within a square, § 631.3);
- Requires the provision of ground floor retail and a 15-foot setback along M Street, S.E.;

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- Requires the provision of publicly accessible open space along the waterfront via a 75 foot building setback; and
- Establishes mandatory Zoning Commission review of projects fronting M Street SE and within the CG/W-2 District.

The CG Overlay was subsequently amended to accommodate the proposed new Major League baseball stadium (Zoning Commission Order No. 05-08, October 17, 2005). Additional amendments to the Overlay became effective on February 16, 2007 with the publication of a Notice of Final Rulemaking for Zoning Commission Case No. 05-10. Among other things, these amendments extended the Zoning Commission review and approval process and design guidelines to additional areas within the Overlay, including buildings that abut South Capitol Street.

Set Down Proceedings

The Office of Planning ("OP") initiated this rulemaking by filing a report with the Commission. The OP report requested map and text amendments to the Capitol Gateway Overlay ("CG") District provisions of the Zoning Regulations; to expand the boundaries of the CG Overlay; and to provide for setback, driveway restriction, and combined lot provisions.

At its May 25, 2006 special public meeting, the Commission agreed to set down the case for a public hearing.

Description of Map and Text Amendments as First Advertised

OP originally recommended an expansion of the boundaries of the Overlay to include:

- Lot 48 within Square 649 on the north side of M Street, zoned C-3-C;
- those portions of Squares 651 and 653 that are zoned C-2-C, which were rezoned from C-M-1 in 2002 as part of the original CG Overlay case (Z.C. Case No. 96-3/89-1), but were not then mapped as part of the CG Overlay; and
- Square 655, zoned R-5-E.

Because all these properties abut South Capitol Street, and as a result of the text amendments made in Z.C. Case 05-10, all new construction thereon would be subject the design standards and the Commission approval process described at 11 DCMR §§ 1605 and 1610 respectively. OP, however, recommended the following exemptions for properties in Squares 649 and 651:

- Not require a 15-foot setback from South Capitol Street.

The South Capitol Street right-of-way widens on the west side of the street, in front of Squares 649 and 651 (from 130 feet elsewhere to 155 feet in front of these squares), so

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that these narrow properties are already set back from the centerline of the street by an additional 25 feet. As such, to ensure a more consistent street wall for new development, the 15-foot setback is not recommended for new development within these squares.

- Permit 60% of the façade to be constructed to the property line, since no setback is required;

OP further proposed to add the areas zoned CG/R-5-E and CG/C-2-C to those CG properties that are precluded from participating in combine lot developments.

Relationship to the Comprehensive Plan

The amendment would not be inconsistent with the Comprehensive Plan or the Comprehensive Plan Generalized Land Use Map and would particularly further the following major themes as outlined in Chapter 1 of the Comprehensive Plan:

- (a) Stabilizing and improving the District's neighborhoods*
- (e) Respecting and improving the physical character of the District*
- (f) Preserving and ensuring community input*
- (g) Preserving the historic character of the District*
- (i) Promoting enhanced public safety*

The proposed amendments would also be consistent with the Anacostia Waterfront Initiative ("AWI"), and NCPC initiatives that advocate the provision of a consistent, "monument" character to South Capitol Street.

Public Hearing

The Commission held a public hearing on this case on November 16, 2006.

At the public hearing, OP described the intent of the proposed map and text amendments, to include those properties south of M Street, S.W. on the west side of South Capitol Street that are not already within the boundaries of the CG Overlay. OP noted that, in response to concerns raised by area residents, the following changes to the amendment were being recommended:

- amend the proposed boundary within Square 655 to include only those properties located between South Capitol Street and the alley and
- clarify that replacement of, or improvements to, an existing rowhouse (located in Squares 653 and 655) would not require Zoning Commission review; and minor vertical (upper story) additions to such rowhouses would also not require the 15-foot setback.

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The Anacostia Waterfront Corporation and the District Department of Transportation submitted written comments in favor of the proposal.

The Commission decided to leave open the record for the receipt of additional information and analysis for a period of 14 days, until November 30, 2006.

Proposed Action

The Commission took proposed action at a properly noticed special public meeting held on January 8, 2007 to adopt the map and text amendment as proposed by the OP, with the amendments proposed by OP at the Public Hearing.

The Notice of Proposed Rulemaking was published in the *D.C. Register* on February 23, 2007 at 54 DCR 1692, for a 30-day notice and comment period.

The proposed rulemaking also was referred to NCPC under the terms of § 492 of the District of Columbia Charter. NCPC, by report dated February 1, 2007, found that the proposed text amendments would not adversely affect the federal interests nor be inconsistent with the Federal Elements of the Comprehensive Plan.

No other comments were received.

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

Final Action

At its properly noticed April 9, 2007 public meeting, The Commission took final action to adopt the proposed text amendment. No substantive changes were made to the advertised prepared text.

Based on the above, the Commission finds that the proposed amendments to the Zoning Regulations are in the best interests of the District of Columbia consistent with the purpose of the Zoning Regulations and the Zoning Act.

In consideration of the reasons set forth herein, the Zoning Commission hereby **APPROVES** the following amendments to Chapter 16 of the Zoning Regulations, Title 11 DCMR (added wording is in **bold** and underlined, and deleted wording is shown in ~~striketrough~~ lettering):

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

1. Rezone from C-3-C to CG/C-3-C Square 649, Lot 48

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2. Rezone from C-2-C to CG/C-2-C Square 651, Lots 147 and 148; and Square 653, Lots 14, 15, 52-54, 60-66, 68-70, 75, 111, 810, 811, 827, and 828
 3. Rezone from R-5-E to CG/R-5-E Square 655, Lots 124-140
- B. Chapter 16, CAPITOL GATEWAY OVERLAY DISTRICT, is amended as follows (new language is shown in bold and underlined text, deleted language is shown with strike through):
1. Section 1600, PREAMBLE, § 1600.1 is amended to add the following to the list of Squares and portions of Squares in the Southwest and Southeast quadrants of the District of Columbia that are included in the CG Overlay District:

as well as Square 649, Lot 48; Square 651, Lots 147 and 148; and Square 653, Lots 14, 15, 52-54, 60-66, 68-70, 75, 111, 810, 811, 827, and 828; and Square 655, Lots 124-140.
 2. Subsection 1602.1 (d) is amended to read as follows:

(d) The combined lot provisions may not be used to transfer density to or from any property within the **CG/R-5-E, CG/C-2-C**, CG/C-3-C, CG/W-1, CG/W-2, or CG/W-3 Districts; and
 3. Section 1605, BUILDINGS, STRUCTURES, AND USES ON SOUTH CAPITOL STREET, is amended as follows:

(a) By amending § 1605.2 is amended to read as follows

1605.2 Each new building or structure located on South Capitol Street shall be set back for its entire height and frontage not less than 15 feet, ~~provided that a minimum of 60% of the street wall shall be constructed on the setback line,~~ **with the exception of a:**
 - (a) **Buildings within Squares 649 and 651; and**
 - (b) **Replacement of an existing row dwelling within Squares 653 and 655; or**
 - (c) **Vertical addition to an existing row dwelling within Squares 653 and 655, not extending out into the South Capitol Street right-of-way and not exceeding 50% of the gross floor area of the original row dwelling.**

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(b) By adding a new § 1605.5 to read as follows:

1605.5 For each new building or structure located on South Capitol Street, a minimum of 60% of the street-wall shall be constructed on the setback line, with the exception of:

(a) Buildings within Squares 649 and 651 where a minimum of 60% of the street-wall shall be constructed to the South Capitol Street property line; and

(b) Replacement of or an addition to an existing row dwelling within Squares 653 or 655 in accordance with § 1605.2.

4. Section 1610, ZONING COMMISSION REVIEW OF BUILDINGS, STRUCTURES AND USES, § 1610.1 (d) is amended to read as follows:

(d) On a lot that abuts South Capitol Street, **other than renovation or replacement of an existing row dwelling within Squares 653 or 655; or for a minor addition not exceeding 50% of the gross floor area of the original row dwelling structure;**

At its public meeting on January 8, 2007, the Zoning Commission **APPROVED** the proposed rulemaking by a vote of 5-0-0 (Carol J. Mitten, Anthony J. Hood, John G. Parsons, Gregory N. Jeffries; and Michael G. Turnbull to approve).

This Order was **ADOPTED** by the Zoning Commission at its public meeting on April 9, 2007 by a vote of 5-0-0 (Carol J. Mitten, John G. Parsons, Anthony J. Hood, Gregory N. Jeffries, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on _____.

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

and

Z.C. ORDER NO. 06-25

Z.C. Case No. 06-25

(Map and Text Amendment - 11 DCMR)

(Chapter 16 Capitol Gateway Overlay District)

April 9, 2007

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

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

and

Z.C. ORDER NO. 06-44

Z.C. Case No. 06-44

(Text Amendment—Temporary Accessory Parking Lot – Square 700, Lot 46)

June 11, 2007

The Zoning Commission for the District of Columbia (the “Commission”), pursuant to the authority set forth in § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code, § 6-641.01); having held a public hearing as required by § 3 of the Act (D.C. Official Code § 6-641.03); and having referred the proposed text amendments to the National Capital Planning Commission (“NCPC”) for a 30-day period of review pursuant to § 492 of the Charter of the District of Columbia; hereby gives notice of the adoption of the following text amendment to Chapter 6 of the Zoning Regulations (Title 11 DCMR). The text amendment adds a new § 601.7(b) to permit an accessory parking lot for the use of the Washington Metropolitan Area Transit Authority (“WMATA”) as a temporary use on Lot 46 in Square 700.

A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on January 5, 2007, at 54 *DCR* 139. The Commission held a public hearing on April 23, 2007, at which it took proposed action to adopt the amendment. The Commission took final action to adopt the amendment at a public meeting on June 11, 2007. No change was made to the text as proposed.

Background

This case was initiated by a letter filed by Holland & Knight, on behalf of Monument Realty (“Monument”), on October 27, 2006, proposing an amendment to § 1600 of the Zoning Regulations in order to allow WMATA to relocate a surface parking lot from Square 701 to “another property within the area zoned CG/CR.” An accessory surface parking lot for employees associated with the WMATA Bus Garage, located at M and Half Streets, S.E., was located in Square 701, close to the Navy Yard Metrorail Station, also located in Square 701. The Navy Yard Metrorail Station is the closest Metrorail Station to the Washington Nationals’ new baseball stadium and is at the center of an area undergoing rapid redevelopment, from a low-density commercial/industrial district to a high-density office, residential, retail, and entertainment district.

In order to accommodate the number of expected visitors to this rapidly developing section of the city, the Navy Yard Metrorail Station will undergo a major upgrade to increase the station’s capacity. WMATA has contracted with Monument to complete the scheduled upgrade. Monument and its affiliates will also develop a mixed-use project in Square 701, proximate to the Metrorail station. To complete the station upgrade and mixed-use project, WMATA’s employee parking lot must be relocated. Because the upgrade of the station must be completed

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prior to the planned opening of the new stadium in April 2008, work in Square 701 must begin immediately, and, similarly, the employee parking lot must be relocated immediately.

On November 11, 2006, Holland & Knight sent the Commission a second letter on behalf of Monument. In this letter, Holland & Knight explained that it had learned that the Commission had recently adopted an amendment to § 601 of the Zoning Regulations to address a situation very similar to Monument's. In this earlier text amendment, Z.C. Case No. 06-20, the Commission permitted WMATA a temporary surface parking lot use in Square 661. Monument decided to "piggyback" its request on this text amendment. Therefore, in its November 11, 2006 letter, in lieu of its original request that § 1600 be amended, Monument requested that § 601 be again amended to address its situation, *i.e.*, to permit a temporary surface parking lot for WMATA on Lot 46 in Square 700.

Set Down Proceedings

The Office of Planning ("OP"), in its Setdown Report to the Commission dated November 6, 2006, recommended that the Commission adopt, on an emergency basis, a text amendment to allow the relocation of the existing accessory parking lot for WMATA from Square 701 to Square 700, for a temporary period not to exceed three (3) years.

Public Meeting and Emergency Action

At its November 13, 2006 public meeting, the Commission voted to approve the proposed text amendment, as a proposed rulemaking, on an emergency basis. The emergency rulemaking took effect immediately upon its adoption on November 13, 2006 and expired on March 16, 2007, 120 days after its adoption.

A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on January 5, 2007, for a 30-day notice and comment period.

Public Hearing and Proposed Action

On April 23, 2007, the Commission held a public hearing on the case. At the public hearing, OP and representatives of Monument Realty testified in support of the proposed text amendment. The Commission did not receive a written report or recommendation from Advisory Neighborhood Commission ("ANC") 6D, the ANC within which Squares 701 and 700 are located. There were no other government agencies, persons, or parties speaking in favor of or in opposition to the proposed text amendment. No other comments were received.

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

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The Commission took proposed action to approve the text amendment at its April 23, 2007 public hearing on the case.

Relationship to the Comprehensive Plan

The Commission finds that the text amendment will not be inconsistent with the Comprehensive Plan or the Comprehensive Plan Generalized Land Use Map.

Referral to the National Capital Planning Commission

On April 25, 2007, the proposed rulemaking was referred to NCPC for review and comment, in accordance with § 492 of the District of Columbia Charter. No report was received from NCPC.

Final Action

At its June 11, 2007 public meeting, the Commission took final action to adopt the proposed text amendment. No substantive changes were made to the proposed text.

Based on the above, the Commission finds that the proposed amendments to the Zoning Regulations are in the best interests of the District of Columbia and consistent with the purpose of the Zoning Regulations and the Zoning Act of 1938.

In consideration of the reasons set forth herein, the Commission hereby APPROVES the following amendment to Chapter 6 of the Zoning Regulations, Title 11 DCMR:

Title 11 DCMR (Zoning), Chapter 6, Mixed Use (Commercial Residential) Districts, § 601.7 (Uses as a Matter of Right), is amended to read as follows (new language shown in **bold** and underlined text and deleted wording is shown in ~~strike through~~ lettering):

601.7 Notwithstanding § 602.1, and not subject to any otherwise applicable proximity requirement, a surface parking lot accessory to the Washington Metropolitan Area Transit Authority garage facility located on Square 700, Lot 857, is permitted as a temporary use ~~for a period of five (5) years maximum on:~~

- (a) Square 661, Lot 805, **for a period of five (5) years maximum, beginning from the date of issuance of a certificate of occupancy for such use, with the 5-year period renewable by the Zoning Commission; and**
- (b) **Square 700, Lot 46, for a period of three (3) years maximum, beginning from the date of issuance of a certificate of occupancy for such use, with the 3-year period renewable by the Zoning Commission.**

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On April 23, 2007, the Zoning Commission **APPROVED** the application by a vote of 3-0-2 (Anthony J. Hood, John G. Parsons, and Michael Turnbull to approve; Carol J. Mitten and Gregory N. Jeffries not present, not voting).

The Order was **ADOPTED** by the Zoning Commission at its public meeting on June 11, 2007 by a vote of 4-0-1 (Anthony J. Hood, Michael Turnbull, John G. Parsons, and Gregory N. Jeffries to approve; Carol J. Mitten, not having 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 _____.

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

and

Z.C. ORDER NO. 06-44

Z.C. Case No. 06-44

(Text Amendment—Temporary Accessory Parking Lot – Square 700, Lot 46)

June 11, 2007

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

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
CORRECTED¹ NOTICE OF FINAL RULEMAKING**

and

Z.C. ORDER NO. 07-08A

Z.C. Case No. 07-08

(Text Amendment - Temporary Ballpark Accessory Surface Parking Lots)

July 30, 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, as amended; D.C. Official Code § 6-641.01); having held a public hearing referred the proposed amendments to the National Capital Planning Commission for a 30-day period of review pursuant to section 492 of the District Charter; hereby gives notice of the adoption of the following amendments to Chapters 1, 3, 6, 7, 9 and 21 of the Zoning Regulations (Title 11 DCMR). This text amendment would permit and regulate temporary surface parking spaces on specified lots near the future Washington Nationals ballpark (Ballpark).

A Notice of Proposed Rulemaking was published in the *D.C. Register* ("DCR") on June 8, 2007 at 54 DCR 5633. Several comments were received and minor changes were made to the text, as will be explained below. The Commission took final action to adopt the amendments at a public meeting on July 30, 2007. This final rulemaking is effective upon publication in the *D.C. Register*.

Set Down Proceedings

The Office of Planning ("OP") initiated this rulemaking by filing a report with the Zoning Commission. The OP report requested text amendments to Chapters 3, 7, 9, and 21 of the Zoning Regulations to permit and regulate temporary (5 year maximum) surface parking spaces on specified squares to meet short term parking needs associated with the new Ballpark. OP further recommended that the Commission take emergency action to adopt the amendment, so that it could immediately take effect.

At its April 9, 2007 public meeting, the Commission declined to take emergency action, but agreed to set down the case for a public hearing with a shortened notice period of 30 days. The Commission further indicated that it would consider taking emergency action to adopt the amendment after the hearing is concluded.

Public Hearing and Proposed Action

The Commission held a public hearing on this case on May 21, 2007. At the public hearing, OP testified that the proposed text amendments would:

¹ This is a corrected version of the Order previously published in the September 14, 2007, edition of the *D.C. Register*. This corrected version corrects the following typographical errors: 1.) § 2110.3(a) – second line, change 13.12.3(c) to 1312.3(c); and 2.) § 2110.5(e) – first line, change 2110.3 to 2110.5.

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- Apply only to Squares 660, 665, 700, 701, 707, 708, 708E, 708S, 744S, 767, 768, 769, and 882.
- Allow matter of right surface parking lots on these squares until April 1, 2013 at the latest.
- Establish that, when not in use for Ballpark event parking purposes, the parking lots could be used for other parking purposes. OP further recommended that the time frame for which the parking spaces would be required to be available for patrons of events at the ballpark be 1.5 hours before an event and 3 hours after the event. The advertised text provided for a 3 hour period in both instances.
- Establish a cumulative matter of right maximum number of 3,775 surface parking spaces to be provided on these lots, derived from the D.C. Major League Baseball Park Transportation Management Plan prepared for the DC Sport and Entertainment Commission (DCSEC) as part of the Zoning Commission review of the ballpark design (ZC Case 06-22).
- Allow special exception approval by the Board of Zoning Adjustment (BZA) for additional parking spaces in excess of this maximum, in accordance with § 3104, subject to the applicant providing a traffic study assessing potential impacts.
- Establish provisions similar to those of §§ 2115 (size of parking spaces) and 2117 (access, maintenance, and operation) to regulate normal parking lot design and function related issues.

In a written report and in testimony at the public hearing, the District Department of Transportation (“DDOT”) indicated support for the proposal on the basis of it being for temporary parking only. DDOT also described ongoing discussions regarding broader traffic and parking management for the Ballpark.

Advisory Neighborhood Commission (“ANC”) 6D provided written and verbal testimony in opposition to the proposal, with the principal concerns being the potential for traffic through existing residential neighborhoods to access the parking spaces, and especially along P Street S.W., 4th Street S.W., and I Street S.W. The ANC also recommended implementation of a Traffic Management Plan, requiring that all parking lots meet stormwater management criteria, and placing a neighborhood recreation surcharge on the parking fees.

One resident and one representative of a property owner testified in opposition to the proposal.

Immediately following the public hearing on May 21, 2007, the Commission took emergency and proposed action to adopt the text amendment as advertised, with an amendment to require an approved traffic management plan (“TMP”) for each surface parking lot approved by DDOT that

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would not direct traffic down P Street S.W., 4th Street S.W., or I Street S.W. The Commission indicated that DDOT could require that the TMP also include the impact of other proposed lots.

The Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on June 8, 2007 at 54 DCR 5633 for a 30-day notice and comment period. Unfortunately, the Notice of Proposed Rulemaking did not accurately capture the intent of the Commission, in that it (1) stated that the TMP must be for the Ballpark as a whole; and (2) provided that each lot is reserved exclusively for ballpark use is 3 hours before each event. After the transcript of the hearing became available, it was clear that the TMP was to be for each surface lot, unless DDOT required an aggregate TMP if more than one lot's application was being processed by the Department of Consumer and Regulatory Affairs, and that the lots were to be reserved for exclusive use by attendees of a baseball game or public event (as described in § 1612.3 of the Zoning Regulations) one and a half (1.5) hours before each game or event. The text of the final rule was modified to reflect the Commission's intent when it took proposed action.

The Commission received comments from Councilmember Tommy Wells, Curt Harris, and Betsy Allman, all expressing concern that allowing construction of temporary parking lots on land currently known as U.S. Reservation 17, parcels B, C, and D (the "Canal Blocks Park Area" which is located within Squares 767, 768, and 769), would delay completion of the planned Canal Blocks Park.

The Commission also received comments from the Coalition for Smarter Growth, suggesting that the Commission require a renewal process for the temporary ballpark Certificates of Occupancy, require the lots comply with stormwater management best practices, require parking management to reduce the impact of the lots on the surrounding neighborhood, impose a parking free on all off-street parking, and require commercial parcels in the vicinity to share parking provided on-site with the Ballpark.

The proposed rulemaking also was referred to the National Capital Planning Commission ("NCPC") under the terms of § 492 of the District of Columbia Charter. NCPC by report dated July 12, 2007, commented that the proposed text amendment would not adversely affect the identified federal interests if the Zoning Commission made the following changes to the text amendment:

- Section 1603.3 of the Zoning Regulations is amended to include temporary surface parking lots as to maintain the 75 foot setback along the Anacostia Waterfront.
- Temporary surface lots are not permitted on the Canal Blocks Park Area.
- The final order for the text amendment clarifies that the existence of the parking lots beyond the April 1, 2013 time limit is not subject to Board of Zoning Adjustment Special Exception review.

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- The Zoning Regulations require that the Board of Zoning Adjustment assess any request for exception to the 3,775 parking space cap for specific impacts to the Anacostia River and the Washington Nationals Baseball Stadium by adding language to Section 2110.2 of the proposed amendment.

Through a supplemental report dated July 18, 2007, OP also recommended that the Commission exclude the Canal Blocks Park Area from eligibility to become a temporary ballpark parking lot.

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

Final Action

At its properly noticed July 30, 2007 public meeting, the Commission took final action to adopt the proposed text amendments, with modified text that adopted the recommendation of Councilmember Wells, OP, and NCPC to exclude the Canal Blocks Park Area from eligibility to become a temporary ballpark parking lot.

Based on the above, the Commission finds that the proposed amendments to the Zoning Regulations are in the best interests of the District of Columbia, consistent with the purpose of the Zoning Regulations and the Zoning Act.

In consideration of the reasons set forth herein, the Zoning Commission hereby **APPROVES** the following amendments to Chapters 1, 3, 6, 7, 9, and 21 of the Zoning Regulations, Title 11 DCMR:

Title 11 (DCMR) is amended as follows:

A. Chapter 1 is amended by adding the following new definition:

199.1 Ballpark – the building and use authorized by Zoning Commission Order No. 06-22.

B. Chapter 3, R-2, R-3, R-4, AND R-5 RESIDENTIAL DISTRICT USE REGULATIONS, § 350 is amended by adding the following new provision:

350.4 (i) Temporary surface parking lot accessory to the Ballpark shall be permitted on Square 882 in accordance with § 2110. In the event that the cumulative parking limit established in § 2110.1 (a) is met, additional temporary surface parking spaces accessory to the Ballpark on Square 882 shall be permitted as a special exception use if approved by the Board of Zoning Adjustment pursuant to § 2110.2.

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- C. Chapter 6, MIXED USE (CR) DISTRICTS, § 601 is amended by adding the following new provision:

601.1 (dd) Notwithstanding § 602.1, temporary surface parking lot accessory to the Ballpark shall be permitted on Squares 660, 665, 700, 701, 882; and on Square 767, Lots 44 - 47; Square 768, Lots 19- 22; and Square 769, Lot 19 and those portions of Lots 18 and 20 within the CR District; in accordance with § 2110. In the event that the cumulative parking limit established in § 2110.1 (a) is met, additional temporary surface parking spaces accessory to the Ballpark on Squares 660, 665, 700, 701, 882; and on Square 767, Lots 44 - 47; Square 768, Lots 19- 22; and Square 769, Lot 19 and those portions of Lots 18 and 20 within the CR District, shall be permitted as a special exception if approved by the Board of Zoning Adjustment pursuant to § 2110.2.

- D. Chapter 6, MIXED USE (CR) DISTRICTS, § 602 is amended by adding the following new text (additions to the existing text are **bold** and underlined):

602.1 (j) Parking lot, **except a temporary surface parking lot permitted pursuant to § 601.1(dd)**;

- E. Chapter 7, COMMERCIAL (C) DISTRICTS, § 741 is amended by adding the following new provision:

741.5 (d) Temporary surface parking lot accessory to the Ballpark shall be permitted on Square 769, Lot 21 and those portions of Lots 18 and 20 within the C-3-C District, in accordance with § 2110.1 (a). In the event that the cumulative parking limit established in § 2110.1 (b) is met, additional temporary surface parking spaces accessory to the Ballpark on Square 769, Lot 21 and those portions of Lots 18 and 20 within the C-3-C District, shall be permitted as a special exception if approved by the Board of Zoning Adjustment pursuant to § 2110.2.

- F. Chapter 9, WATERFRONT (W) DISTRICTS, § 901 is amended by adding the following new provision:

901.1 (dd) Notwithstanding § 352.3, temporary surface parking lot accessory to the Ballpark shall be permitted on Squares 707, 708, 708E, 708S, or 744S, in accordance with § 2110. In the event that the cumulative parking limit established in § 2110.1 (a) is met, additional temporary surface parking spaces accessory to the Ballpark on Squares 707, 708, 708E, 708S, or 744S shall be permitted as a special exception in a W-2 District if approved by the Board of Zoning Adjustment pursuant to § 2110.2.

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- G. Chapter 9, WATERFRONT (W) DISTRICTS, § 902 is amended by adding the following new text (additions to the existing text are **bold** and underlined):

902.1 (l) Parking Lot:

(i) except a temporary surface parking lot permitted pursuant to § 901.1 (dd); or

(ii) other than as permitted by special exception in the W-0 District in §926;

- H. Chapter 21, OFF STREET PARKING REQUIREMENTS, is amended by adding the following new section:

2110 Temporary Surface Parking Lots and Spaces for the Ballpark

2110.1 Permitted Use - Notwithstanding §§ 602.1 and 902.1 and not subject to any otherwise applicable proximity requirement, a temporary surface parking lot accessory to the Ballpark shall be permitted as a temporary use on Squares 660, 665, 700, 701, 707, 708, 708E, 708S, 744S, and 882; and Square 767, Lots 44 – 47; Square 768, Lots 19 – 22; and Square 769, Lots 18 - 21 (“the subject squares”) in accordance with §§ 2110.3 through 2110.5 and the following provisions:

- (a) The cumulative total of all temporary surface parking spaces for which a valid Building Permit has been issued pursuant to this section shall not exceed 3,775 parking spaces.
- (b) Any certificate of occupancy issued pursuant to this subsection shall expire no later than April 1, 2013.
- (c) The application for a building permit for matter of right construction shall include a detailed accounting demonstrating that the circumstances described in § 2110.2 do not apply.
- (d) No certificates of occupancy for this use shall be issued until the District Department of Transportation has approved a traffic routing plan for the lot, which shall include the impact of other proposed lots if required by DDOT.
- (e) The traffic routing plan described in § 2110.1(d) shall not direct traffic through I St., SW, P St., SW, or 4th St., SW.

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- 2110.2 Special Exception - If and when valid building permits issued pursuant to § 2110.1 authorize an aggregate of 3,775 or more parking spaces, the construction and use of additional temporary spaces on any of the subject squares shall require approval of the Board of Zoning Adjustment pursuant to § 3104, and in accordance with §§ 2110.3 through 2110.5 and the following provisions:
- (a) Any certificate of occupancy issued pursuant to this subsection shall expire no later than April 1, 2013; and
 - (b) The BZA application shall include a detailed accounting of the number and locations of temporary parking spaces provided pursuant to § 2110.1; and shall also include a traffic study assessing the impacts of the proposed additional parking spaces on local traffic patterns for referral to and comment by the District Department of Transportation.
- 2110.3 Any parking lot authorized shall be available for exclusive use of attendees at any baseball game or other public event described in §1612.3 for a time period extending from one and a half (1.5) hours prior to the scheduled start time of the event, to 3 hours after the event. At all other times, the parking lot may be used for:
- (a) Parking on a general basis for "non-commercial motor vehicles" as that term is defined by 18 DCMR § 1312.3 (c), except vehicles equipped to serve as temporary or permanent living quarters; or
 - (b) A seasonal or occasional market for produce, arts or crafts with non-permanent structures.
- 2110.4 No use, other than permitted in this section shall be conducted from or upon the premises, and no structure other than an attendant's shelter shall be erected or used upon the premises unless the use or structure is otherwise permitted in the District in which the parking lot is located.
- 2110.5 A temporary surface parking lot provided in accordance with this section shall comply with the following standards:
- (a) A full size automobile parking space shall be a minimum of nine feet (9 ft.) in width and nineteen feet (19 ft.) in length, exclusive of access drives or aisles. A compact car parking space shall be a minimum of eight feet (8 ft.) in width and sixteen feet (16 ft.) in length exclusive of access drives or aisles, and shall be visibly marked as a "compact car" or "small car" parking space.

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- (b) Parking shall be designed so that no vehicle or any part thereof shall project over any lot line or building line. All parking areas and spaces shall be designed and operated so that sufficient access and maneuvering space is available to permit the parking and removal of any vehicle without moving any other vehicle onto public space.
- (c) When parking spaces are so arranged that an aisle is required for accessibility or maneuvering space between rows of 2 or more parking spaces, or between a row of 2 or more parking spaces and the perimeter of the area devoted to parking spaces, the aisle shall have a clear width of not less than twenty feet (20 ft.) or ninety degree (90°) angle parking, and not less than seventeen feet (17 ft.) for angle parking that is sixty degrees (60°) or less as measured from the center line of the aisle.
- (d) Aisle widths serving compact car spaces exclusively shall have a clear width of not less than twenty feet (20 ft.) for ninety degree (90°) angle parking and not less than sixteen feet (16 ft.) for angle parking that is sixty degrees (60°) or less as measured from the center line of the aisle.
- (e) Compliance with the requirements of §§ 2110.5 (c) and (d) is not required if the parking is managed during a specified twelve (12) hour peak period to be determined by the District Department of Transportation by employed attendants who park the vehicles using the parking facility; in which case a permanent sign shall be posted at each entrance in full view of the public that states: "Attendant assisted parking is required by the District of Columbia Zoning Regulations." The sign shall also state the hours during which attendant parking is required. The sign shall have a white background, with black lettering that is no less than two inches (2 in.) in height.
- (f) A driveway that provides access to required parking spaces shall:
 - (i) Have a maximum grade of not more than twelve percent (12%) with a vertical transition at the property line;
 - (ii) Be not less than twenty-five feet (25 ft.) from a street intersection as measured from the intersection of the curb line extended;
 - (iii) Be not less than twelve feet (12 ft.) in width if designed for one-way circulation or fourteen feet (14 ft.) if designed for two-way circulation; and

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- (iv) Be not more than twenty-five feet (25 ft.) in width.
- (g) All parking spaces, including access aisles, driveways, and ramp areas shall be surfaced and maintained with an all-weather surface. In addition to traditional impervious surfaces, allowable all weather surfaces include porous (or pervious) concrete, porous asphalt, and/or mechanically-reinforced grass, excluding grass or gravel.
- (h) The parking lot shall be kept free of refuse and debris and shall be landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance. Landscaping with trees and shrubs shall cover a minimum of five percent (5%) of the total area of the parking lot, or an area as determined by the Board of Zoning Adjustment for a parking lot requiring Board approval.
- (i) Any lighting used to illuminate a parking lot or its accessory building shall be so arranged that all direct rays of lighting are confined to the surface of the paved area devoted to parking.

Vote of the Zoning Commission taken at its public meeting on May 21, 2007 to **APPROVE** the proposed rulemaking by a vote of **3-0-2** (Carol J. Mitten, Anthony J. Hood, and Michael G. Turnbull to approve; John G. Parsons Gregory N. Jeffries not present, not voting).

This Order was **ADOPTED** by the Zoning Commission at its public meeting on July 30, 2007 by a vote of **3-0-2** (Carol J. Mitten, Anthony J. Hood, and Michael G. Turnbull to adopt; John G. Parsons and Gregory N. Jeffries 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 _____.

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

and

Z.C. ORDER NO. 07-08A

Z.C. Case No. 07-08

(Text Amendment - Temporary Ballpark Accessory Surface Parking Lots)

July 30, 2007

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

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

and

Z.C. ORDER NO. 07-09

Z.C. Case No. 07-09

(Text Amendments – 11 DCMR)

(Exemption from Certificate of Occupancy Timing Requirements)

September 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, as amended; D.C. Official Code § 6-641.01, and having held a public hearing and referred the proposed amendments to the National Capital Planning Commission (“NCPC”) for a 30-day period of review pursuant to § 492 of the District of Columbia Charter; hereby gives notice of adoption of the following amendments to §§ 1706.13 and 1706.23(g) of the Zoning Regulations (Title 11 DCMR).

Subsection 1706.13 governs the issuance of certificates of occupancy for projects within a Downtown Development Overlay District Housing Priority Area that either contain non-residential and required residential uses or have allocated their residential requirement through a combined lot development. The provision disallows the issuance of a certificate of occupancy for the non-residential use until a certificate of occupancy has been issued for the required residential use or an escrow is funded. Similarly, § 1706.23(g) provides that a certificate of occupancy may not be issued to a development that has reduced its residential requirement through constructing affordable housing offsite until a certificate of occupancy is issued for the affordable housing created. The text amendments permit an exception to both provisions when the required residential use is being allocated to or the affordable housing is being constructed on District-owned property.

A Notice of Proposed Rulemaking was published in the *D.C. Register* (“DCR”) on August 10, 2007, at 54 DCR 7769. The Commission took final action to adopt the amendments at a public meeting on September 10, 2007. This final rulemaking is effective upon publication in the *D.C. Register*.

Setdown, Public Hearing Notice, Comment, and Public Hearing

The Office of Planning (“OP”) initiated this rulemaking by filing a report dated March 29, 2007. At its April 9, 2007 public meeting, the Commission set down the case for a public hearing, and authorized publication of the text suggested by the OP in its report. The text proposed by OP would have limited the exception to District property located in the Old Convention Center Site.

The Commission held a public hearing on the proposed text amendments on July 16, 2007. At that hearing, the Office of Planning recommended that the proposed amendments apply to all District property that has accepted a residential requirement or upon which affordable housing is being or will be constructed. The Commission agrees and took proposed action to approve the broader text amendment recommended OP.

Z.C. NOTICE OF FINAL RULEMAKING AND ORDER NO. 07-09**Z.C. CASE NO. 07-09****PAGE 2**Relationship to the Comprehensive Plan

The amendments are not inconsistent with the Comprehensive Plan, and are fully consistent with the following elements of the Comprehensive Plan:

- § 1708.12, Leveraging Public Development Sites, which recommends using the “former Washington Convention Center site to implement key objectives and policies of the Central Washington Area Element, especially with respect to land use and urban design;” and
- § 1711.4, Metro Center/Retail Core, which provides “the old Convention Center site offers an opportunity to improve the connection between the two areas and create an expanded Central Washington shopping district for the region.”

Notice of Proposed Rulemaking

A Notice of Proposed Rulemaking was published in the *D.C. Register* on August 10, 2007, at 54 DCR 7769, for a 30-day notice and comment period. No comments were received.

The proposed rulemaking was also referred to NCPC pursuant to § 492 of the District of Columbia Charter. NCPC, by report dated August 3, 2007, found that the proposed text amendment would not adversely affect the federal interests nor be inconsistent with the Federal Elements of the Comprehensive Plan.

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

Final Action

The Commission took final action to adopt the rulemaking at its regularly scheduled public meeting on September 10, 2007. No changes were made to the text published in the notice of proposed rulemaking.

Based on the above, the Commission finds that the proposed amendments to the Zoning Regulations are in the best interests of the District of Columbia, consistent with the purpose of the Zoning Regulations and Zoning Act, 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 amendments to Chapter 17 of the Zoning Regulations, Title 11 DCMR:

Z.C. NOTICE OF FINAL RULEMAKING AND ORDER NO. 07-09
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Subsections 1706.13 and 1706.23 of § 1706 RESIDENTIAL AND MIXED USE DEVELOPMENT are amended to read as follows (added wording is in **bold and underlined**):

1. Subsection 1706.13 is amended to read as follows:

If a development project includes both nonresidential uses and required residential uses, whether on the same lot or in a combined lot development, no certificate of occupancy shall be issued for the nonresidential space until either:

- (a) A certificate of occupancy has been issued for the residential space; or
- (b) An escrow account has been established and funded in a combined lot development pursuant to § 1708.2.

This provision shall not apply to nonresidential gross floor area resulting from a combined lot development that allocated an equivalent amount of the property's required residential uses to one or more lots then owned by the District government.

2. Subparagraph (g) of subsection 1706.23 is amended to read as follows:

- (g) No certificate of occupancy shall be issued for the nonresidential development within the DD Overlay District until a certificate of occupancy has been issued for the affordable dwelling units, **unless the affordable dwelling units are being constructed on property owned by the District of Columbia.**

Vote of the Zoning Commission taken at its public hearing on July 16, 2007, to **APPROVE** the proposed rulemaking: **3-0-2** (Anthony J. Hood, John G. Parsons, and Michael G. Turnbull to approve; Carol J. Mitten and Gregory N. Jefferies not present, not voting).

This Order was **ADOPTED** by the Zoning Commission at its public meeting on September 10, 2007, by a vote of **4-0-1** (John G. Parsons, Michael G. Turnbull, Anthony J. Hood and Gregory N. Jeffries (by absentee ballot) to adopt; Carol J. Mitten, 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 _____.

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

and

Z.C. ORDER NO. 07-09

Z.C. Case No. 07-09

(Text Amendments – 11 DCMR)

(Exemption from Certificate of Occupancy Timing Requirements)

September 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*.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., 2nd FLOOR, WEST TOWER
WASHINGTON, D.C. 20005

NOTICE OF FINAL RULEMAKING

FORMAL CASE NO. 945, IN THE MATTER OF THE INVESTIGATION INTO
ELECTRIC SERVICE MARKET COMPETITION AND REGULATORY PRACTICES,

AND

FORMAL CASE NO. 1017, IN THE MATTER OF THE DEVELOPMENT AND
DESIGNATION OF STANDARD OFFER SERVICE IN THE DISTRICT OF
COLUMBIA

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice of its final rulemaking action, taken in Order No. 14599, to approve, pursuant to Section 2-505 of the District of Columbia Official Code, the tariff of the Potomac Electric Power Company ("PEPCO").

2. In its filing, PEPCO proposed to increase the Reliable Energy Trust Fund ("RETF") surcharge rider by \$0.00021 from \$0.00090 to \$0.00111.¹ The RETF surcharge is currently \$0.00090 per kWh.² Pursuant to a settlement agreement approved by the Commission in Formal Case No. 1002, PEPCO agreed to fund the RETF at a rate of \$0.00021 per kWh through August 7, 2007.³ The RETF, therefore, has been funded at a total rate of \$0.00111 per kWh through that date. Since PEPCO is no longer contributing toward the RETF, PEPCO proposes to increase the RETF surcharge rider by \$0.00021 per kWh, from \$0.00090 to \$0.00111 per kWh.⁴ Under PEPCO's proposal, therefore, ratepayers would now provide the \$0.00021 per kWh in RETF funding previously provided by the company. Specifically, PEPCO proposes to amend the following five (5) tariff pages:

**ELECTRICITY TARIFF, P.S.C.-D.C. No. 1
Thirty-Fifth Revised Page No. R-1
Thirty-Fifth Revised Page No. R-2
Twenty-Eighth Revised Page No. R-2.1
Fourth Revised Page No. R-2.2
Seventh Revised Page No. R-26.**

¹ *Formal Case No. 945, In The Matter Of The Investigation Into Electric Service Market Competition And Regulatory Practices, and Formal Case No. 1017, In the Matter of the Development and Designation of Standard Offer Service in the District of Columbia*, Letter from Anthony C. Wilson, Associate General Counsel, PEPCO Holdings Inc., to Dorothy Wideman, Secretary, Public Service Commission of the District of Columbia (Aug. 15, 2007) ("PEPCO's Tariff").

² *Id.*

³ *See Formal Case No. 1002, In the Matter of the Joint Application of PEPCO and the New RC, Inc. for Authorization and Approval of Merger Transaction*, Order No. 12395, rel. May 1, 2002, at 3, 5, and 60.

⁴ PEPCO's Tariff.

3. The Commission issued a Notice of Proposed Rulemaking (“NOPR”) which was published in the *D.C. Register* on August 31, 2007.⁵ No comments were filed in response to the NOPR. By Order No, 14599, the Commission approved PEPCO’s proposed tariff. This tariff amendment will become effective upon the date of publication of this Notice of Final Rulemaking in the *D.C. Register*.

⁵ 54 *D.C. Register* 8606-8607 (Aug. 31, 2007).