

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

and

Z.C. ORDER NO. 05-34

Z.C. Case No. 05-34

(Map Amendment – Square 895, Lot 76)

September 11, 2006

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 for a 30-day period of review pursuant to § 492 of the District Charter, hereby gives notice of its adoption of an amendment to the Zoning Map of the District of Columbia that rezones Square 895, Lot 76 from R-5-D to R-5-B. The map amendment applies to property located at 708 Massachusetts Avenue, N.E., which is situated on the north side of Constitution Avenue, N.E.; the northeast side of Massachusetts Avenue, N.E.; the south side of C Street, N.E.; the west side of 8th Street, N.E.; and the east side of 7th Street, N.E.

The Commission took final action to adopt the amendment at a public meeting held on September 11, 2006.

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

The case was initiated by Advisory Neighborhood Commission 6C, which proposed to rezone the subject property from R-5-D to R-4 as a zoning consistency map amendment.

The subject property is zoned R-5-D, a medium-high density zone district. The subject property, however, is designated moderate-density residential by the Comprehensive Plan Generalized Land Use Map.

The subject property surrounds on three sides a property located on the west side of 8th Street, N.E. that is zoned R-4 and improved with a church. Properties on the north side of C Street, N.E. and the west side of 8th Street, N.E. are zoned R-4 and C-2-A and are predominantly developed as row houses, conversions to apartment houses, and medical offices. Properties on the south side of Massachusetts Avenue, N.E. are zoned R-4 and are predominantly developed as row houses with some apartments. Properties on the west side of 7th Street, N.E. are zoned R-4 and are predominantly developed as flats.

The Zoning Commission scheduled a setdown decision on the petition for its December 16, 2005 public meeting. In a report submitted December 2, 2005, the Office of Planning ("OP") recommended setting down the matter as a proposal to rezone the property to R-5-B, rather than the R-4 zoning requested in the petition, because OP was concerned that R-4 zoning would result in excessive nonconformities on the property.

At the December 16, 2005 public meeting, the Zoning Commission deferred its set down decision on the petition and requested that OP compare the existing improvements on the site to the building envelope limits of R-4 and the moderate-density R-5 Zone Districts and analyze the potential to convert the existing improvements on the site. On January 4, 2006, OP submitted a supplemental report responsive to the Commission's requests.

At the public meeting held on January 9, 2006, the Commission set down the petition to rezone the subject property from R-5-D to R-4, or R-5-B in the alternative. The R-4 Zone District is designed to include those areas developed primarily with row dwellings, but within which there have been a substantial number of conversions into dwellings for two or more families. The R-5-B Zone District permits moderate-density residence uses, including apartment houses. The Commission indicated that the hearing would be conducted as a rulemaking. A notice setting forth both alternatives was published in the *D.C. Register* on February 3, 2006, at 53 DCR 667.

On February 8, 2006, ANC 6C voted to recommend R-4 zoning, but also to support R-5-A or R-5-B zoning in the alternative.

At the public hearing held on March 23, 2006, witnesses testified both in favor and against the application. OP, through a final report on March 6, 2006 and testimony at the hearing, again recommended that the Zoning Commission rezone the subject property R-5-B for the same reason given in its setdown report. The Commission closed the record at the end of the hearing.

At its regularly scheduled public meeting on April 20, 2006, the Commission took proposed action pursuant to 11 DCMR § 3027 to rezone the subject property to R-5-B. A Notice of Proposed Rulemaking was published in the *D.C. Register* on June 30, 2006, at 53 DCR 5280, for a 30-day notice and comment period. Comments were received from individuals and/or organizations in support of the proposed map amendment. By report dated May 25, 2006, the National Capital Planning Commission found that the proposed map amendment to R-5-B would not adversely affect any federal interests nor be inconsistent with the Comprehensive Plan for the National Capital.

At its regularly scheduled public meeting of September 11, 2006, the Commission took final action to approve the map amendment as proposed. The map amendment will achieve consistency between the Comprehensive Plan and zoning designations for the subject property in a manner that will create the least degree of non-conformities. In consideration of the reasons set forth herein, the Zoning Commission for the District of Columbia hereby **APPROVES** a change of zoning from R-5-D to R-5-B for the north

side of Constitution Avenue, N.E.; the northeast side of Massachusetts Avenue, N.E.; east side of 7th Street, N.E.; the south side of C Street, N.E.; and the west side of 8th Street, N.E. (Square 895, Lot 76).

Vote of the Zoning Commission taken at its public meeting on May 8, 2006 to **APPROVE** the proposed rulemaking: **3-2-0** (John Parsons, Carol J. Mitten, and Michael G. Turnbull to approve; Anthony J. Hood, Gregory N. Jeffries opposed).

This Order and Final Rulemaking were **ADOPTED** by the Zoning Commission at its public meeting on September 11, 2006 by a vote of **3-2-0** (John Parsons, Carol J. Mitten, and Michael G. Turnbull to approve; Anthony J. Hood, Gregory N. Jeffries opposed).

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. 05-34

Z.C. Case No. 05-34

(Map Amendment – Square 895, Lot 76)

September 11, 2006

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. 06-06

Z.C. Case No. 06-06

(Text Amendments – 11 DCMR)

(Charter Schools Text Amendments)

September 25, 2006

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 for a 30-day period of review pursuant to § 492 of the District of Columbia Charter; hereby gives notice of the adoption of amendments to § 199 (Definitions), § 201 (Uses as a Matter of Right (R-1)), § 206 (Public and Private Schools and Staff Residences), § 400 (Height of Buildings or Structures (R)), § 401 (Minimum Lot Dimensions (R)), § 403 (Percentage of Lot Occupancy (R)), § 501 (Uses as a Matter of Right (SP)), § 601 (Uses as a Matter of Right (CR)), § 771 (Floor Area Ratio (C)), § 901 (Uses as a Matter of Right (W)), Chapter 21 (Off-Street Parking Requirements), and Chapter 31 (Board of Zoning Adjustment Rules of Practice and Procedure) of the Zoning Regulations (Title 11 DCMR). The amendments change the definition of "Schools, public" in the Zoning Regulations to include charter schools; amend the building height, lot area, lot width, and lot occupancy requirements for public schools in Residence Districts; allow collocation of school uses with other uses and sharing of recreation facilities; permit schools in Residence Zones not meeting the requirements of Chapter 4 to be allowed as special exceptions; allow public schools in SP, CR, and W Zone Districts; amend density limits for public schools in Commercial Districts; and create parking standards for preschools. The Commission took final action to adopt the amendments at a public meeting held on September 25, 2006.

Only one substantive change was made to the text of the Corrected Revised Notice of Proposed Rulemaking published in the August 18, 2006 edition of the *D.C. Register*, namely the elimination of an exception from the lot dimension requirements for schools of sixteen (16) or fewer students. As discussed later in this Order, the change was made in response to public comment, and, therefore does not require publication of a new Notice of Proposed Rulemaking.

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

Existing Regulations

The existing regulations neither define charter schools nor provide standards for their development. The existing definition of public school defines public schools as being operated or maintained by the Board of Education. Charter schools do not fall within that description. Although charter schools may be similar to public schools, the District of Columbia Court of Appeals has ruled that the Zoning Administrator may not "interpret defined uses in the Zoning Regulations to encompass other uses that are functionally comparable ... if they are outside the definition," *Chagnon v. District of Columbia Board of Zoning Adjustment*, 844 A.2d 345, 348 (D.C. 2004). Thus, without these amendments, charter schools would be disallowed in most zone districts.

Description of Text Amendment

The Commission initiated this rulemaking to respond to the Zoning Administrator's concerns regarding charter schools. The amendments change the definition of "Schools, public" in the Zoning Regulations to include charter schools; amend the building height, lot area, lot width, and lot occupancy requirements for public schools in Residence Districts; allow collocation of school uses with other uses and sharing of recreation facilities; permit schools in Residence Zones not meeting the proposed requirements to be allowed as special exceptions; allow public schools in SP, CR, and W Zone Districts; amend density limits for public schools in Commercial Districts; and create parking standards for preschools.

Relationship to the Comprehensive Plan

The text amendments are not inconsistent with any of the Comprehensive Plan themes, goals, objectives, or policies. No policies specifically address the placement or impacts of public schools. The major themes of the Plan tend to promote maintaining or improving the character of neighborhoods as well as enhancing public safety. The proposed changes further the goals of both of these themes and are not inconsistent with any specific areas of the Plan.

Set Down, Emergency Action, Public Hearing, and Proposed Action

At its regularly scheduled public meeting on February 13, 2006, the Commission decided to set down the proposed changes to the Zoning Regulations for a public hearing, to adopt a portion of the proposed text on an emergency basis, and to publish all of the amendments for public comment in a notice of proposed rulemaking. The combined Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on March 17, 2006 at 53 DCR 2017 along with a notice of the public hearing.

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The Commission held a public hearing on the case May 11, 2006. At the hearing, more than a dozen persons and organizations testified, both in favor and against the proposed rule. Those in favor stressed the compromise between educational opportunities and the protection of existing neighborhoods. Witnesses testifying in opposition fell into two categories, those who thought the proposed action was too restrictive on schools and those who thought it was not restrictive enough. Several charter school proponents and groups testified that they were concerned that the regulations would make the siting and development of charter schools much more difficult than at present. Other opponents, including representatives of ANC 3C, expressed concern that the new regulations would allow matter-of-right schools in established neighborhoods with no community input. The chair of the D.C. Public Charter School Board testified to the role of his Board and their willingness to work with the Commission on communication and addressing community concerns regarding new schools. No representative of the District of Columbia Board of Education or District of Columbia Public Schools testified.

The Office of Planning, through testimony and a written report, suggested that the Commission:

- Add a new § 401.9 to clarify the lot width requirement for public schools on corner and through lots;
- Add a new § 401.10 to clarify that public schools locating on existing split-zoned lots can use the lot area and width standards of the less restrictive zone;
- Remove the lot area requirements for public schools in R-5-C, R-5-D, and R-5-E Zone Districts;
- Reduce the minimum lot width requirement for public schools to 80 feet in all R-5 Zone Districts; and
- Treat public schools as residential uses for purposes of calculating density in Commercial Zone Districts.

After the hearing, the Office of Planning filed a supplemental report suggesting that the Commission add a new § 401.11 to exempt public schools with 16 or fewer students from the residential lot requirements.

The Commission took proposed action on July 10, 2006 to approve the proposed text with the modifications suggested by the Office of Planning at the hearing and in its supplemental report.

Because the text of the proposed rule differed in several respects from that published in March 2006, a Revised Notice of Proposed Rulemaking was published in the *D.C. Register* on July 21, 2006 at 53 DCR 5888, for a 30-day notice and comment period. A Corrected Revised Notice of Proposed Rulemaking was published on August 18, 2006 at 53 DCR 6860.

The majority of the comments received expressed opposition to the proposed exception from residential lot requirements for schools of 16 or fewer students, believing that the exemption would destabilize existing residential neighborhoods due to the potential negative impacts of very small schools.

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ANC 3C submitted a resolution dated August 22, 2006 in opposition to the text amendment. The resolution recommended that all charter schools require special exception approval in order to assure full participation by affected residents. It further listed nine reasons for the ANC's opposition to the proposed regulation, including the potential destabilization of residential areas, lack of limits on the number of schools in a neighborhood, lack of community input in the existing chartering process, and the lack of a citywide plan for educational institution location.

An August 24, 2006 letter from Mr. Lindsley Williams described three areas that he believes need further clarification. Two of the issues concerned text already in the Zoning Regulations. First, he suggested that the extent to which a public school may allow community uses should be more clearly defined. Second, he questioned why the current regulation (and three provisions in the proposed text) refers to compliance with Chapter 21 (Off-Street Parking Requirements) but not Chapter 22 (Off-Street Loading Facility Requirements). As to the proposed text, he recommended clarifying the definition of "employees" for the purposes of calculating the parking standards for pre-elementary and pre-kindergarten schools, given the extent to which contractors and other third parties service such facilities.

The proposed rulemaking was also referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the District of Columbia Charter. The NCPC Executive Director, by delegated action dated August 8, 2006, found the proposed text amendments would not affect the identified federal interests in the National Capital nor be inconsistent with the Comprehensive Plan for the National Capital.

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 25, 2006.

The Commission decided to remove the proposed new § 401.11 that created an exception from the lot dimension requirements in Residence Districts for public schools with no more than sixteen students. The Commission believes that ANC 3C offered persuasive advice regarding the potential negative impacts the exemption would have on residential neighborhoods. Moreover, after the Commission added this provision, it learned that no existing public school (including any charter school) was small enough to qualify for the exception and it is unlikely that any future school of that size would be established. The Commission concluded that the combination of these factors warranted the elimination of the proposed exception. The remaining concerns of the ANC pertain to actions of District agencies that are not under the control of the Zoning Commission. The District government has decided to allow Charter Schools. The Commission began this case because that use was undefined. The Commission cannot wait for other

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processes to occur before allowing these schools in the areas they are intended to serve, under conditions that will mitigate any potential adverse impact.

The Commission also noted that while Mr. Williams' comments were meritorious, further study was needed before they could be implemented. Rather than delaying the permanent implementation of this rule, the Commission requested that the Office of Planning study the issues raised by Mr. Williams' comments and report the results to the Commission.

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 Chapters 1, 2, 4, 5, 6, 7, 9, and 21 of the Zoning Regulations, Title 11 DCMR. Added wording is underlined, and deleted wording is shown in strike-through lettering:

A. Chapter 1, THE ZONING REGULATIONS, § 199.1, is amended as follows:

School, public - A building or use within a building operated ~~and maintained~~ or chartered by the District of Columbia Board of Education or the District of Columbia Public Charter School Board for educational purposes and other such community uses as deemed necessary and desirable.

B. Chapter 2, R-1 RESIDENCE DISTRICT USE REGULATIONS, is amended as follows,

1. By amending § 201.1(k) to read as follows:

(k) Public school, subject to the provisions of chapter 21 of this title; public schools may collocate with other permitted schools or uses provided all applicable requirements of this title are met. Public schools may share common on-site recreation space including gymnasiums, playgrounds, and fields, and these shared recreational spaces may count toward the minimum lot area provided that the school is adjacent to the shared recreation space; on-site office use must be ancillary and necessary to the operation of the particular school.

2. By amending § 206 to read as follows:

206 PUBLIC AND PRIVATE SCHOOLS AND STAFF RESIDENCES (R-1)

206.1 Use as a public school that does not meet the requirements of chapter 4 of this title or as a private school, but not including a trade school, and

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residences for teachers and staff of a private school, shall be permitted as a special exception in an R-1 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.

206.2 The school shall be located so that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic, number of students, or otherwise objectionable conditions.

206.3 Ample parking space, but not less than that required in chapter 21 of this title, shall be provided to accommodate the students, teachers, and visitors likely to come to the site by automobile.

C. Chapter 4, RESIDENCE DISTRICTS: HEIGHT, AREA, AND DENSITY REGULATIONS, is amended as follows:

1. By amending §§ 400.10 and 400.11 to read as follows:

400.10 In an R-1, R-2, R-3, and R-4 District, a public school building or structure may be erected to a height not exceeding sixty feet (60 ft).

400.11 In an ~~R-3, R-4~~, R-5-A, R-5-B, and R-5-C District, a public school building or structure may be erected to a height not exceeding ninety feet (90 ft).

2. By amending the table in § 401.3 to read as follows:

ZONE DISTRICT AND STRUCTURE	MINIMUM LOT AREA (square feet)	MINIMUM WIDTH OF LOT (feet)
<u>R-1-A</u> <u>Public School</u>	<u>15,000</u>	<u>120</u>
R-1-A All <u>other</u> structures	7,500	75
<u>R-1-B</u> <u>Public School</u>	<u>15,000</u>	<u>120</u>
R-1-B All <u>other</u> structures	5,000	50
<u>R-2</u> <u>Public School</u>	<u>9,000</u>	<u>120</u>

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R-2 One-family semi-detached dwelling	3,000	30
R-2 All other structures	4,000	40
<u>R-3</u> <u>Public School</u>	<u>9,000</u>	<u>120</u>
R-3 Row dwelling	2,000	20
R-3 One-family semi-detached dwelling	3,000	30
R-3 All other structures	4,000	40
<u>R-4</u> <u>Public School</u>	<u>9,000</u>	<u>120</u>
R-4 Row dwelling and flat	1,800	18
R-4 One-family semi-detached dwelling	3,000	30
R-4 Conversion to apartment house	900/apartment or bachelor apartment	None prescribed
R-4 All other structures	4,000	40
<u>R-5-A</u> <u>Public School</u>	<u>9,000</u>	<u>80</u>

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R-5-A All other structures	As prescribed by the Board pursuant to § 3104	As prescribed by the Board pursuant to § 3104
<u>R-5-B Public School</u>	<u>9,000</u>	<u>80</u>
<u>R-5-C, R-5-D, R-5-E Public School</u>	<u>None prescribed</u>	<u>80</u>
R-5-B, R-5-C, R-5-D, R-5-E All other structures	None prescribed	None prescribed

3. By adding new §§ 401.8 through 401.10 to read as follows:

401.8 For public schools, minimum lot area may include adjacent parcels under the same ownership that are separated only by a public alley.

401.9 For public schools on a corner lot or through lot, minimum lot width may include the measurement of all street frontages.

401.10 For public schools on split-zoned lots, the minimum lot width and minimum lot area requirements if any, of the less restrictive zone shall apply to the entire lot as long as the lot was in existence as of February 13, 2006.

4. By amending § 403.1 to read as follows:

403.1 A public school building may occupy the lot upon which it is located in excess of the permitted percentage of lot occupancy prescribed in §403.2; provided, that the portion of the building excluding closed courts exceeding the lot coverage shall not exceed twenty feet (20 ft.) in height or two (2) stories; and provided further, that direct pedestrian access not less than ten feet (10 ft) in width from at least two (2) public rights-of-way shall be provided to each roof area used for these purposes. The roof area shall be used only for open space, recreation areas, or other athletic and field equipment areas in lieu of similarly used space normally located at ground level. In the R-2, R-3, and R-4 zones, the total lot occupancy shall not exceed 70 percent.

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D. Chapter 5, SPECIAL PURPOSE DISTRICTS, is amended by adding a new §501.1(i) to read as follows:

(i) Public School, subject to the provisions of chapter 21 of this title.

E. Chapter 6, MIXED USE (COMMERCIAL RESIDENTIAL) DISTRICTS, is amended by adding a new §601.1(u) to read as follows:

(u) Public School, subject to the provisions of chapter 21 of this title.

F. Chapter 7, COMMERCIAL DISTRICTS, is amended as follows:

1. By amending the heading of the table in § 771.2 to read as follows:

ZONE DISTRICT	APARTMENT HOUSE OR OTHER RESIDENTIAL USE OR PUBLIC SCHOOL	OTHER PERMITTED USE	MAXIMUM PERMITTED (FAR)
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2. By adding a new § 771.10 to read as follows:

771.10 In a C-1 District, the maximum floor area ratio requirements may be increased for specific public school buildings or structures, but shall not exceed the floor area ratio 1.8.

G. Chapter 9, WATERFRONT DISTRICTS, is amended by adding a new § 901.1(v) to read as follows:

(v) Public School, subject to the provisions of chapter 21 of this title.

H. Chapter 21, OFF STREET PARKING REQUIREMENTS, is amended by adding the following to the chart found in § 2101.1:

SCHOOLS	
<u>Pre-elementary schools and pre-kindergarten schools or facilities:</u>	<u>2 for each 3 teachers and other employees</u>

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- I. Chapter 31, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE, is amended by adding to the table of special exceptions in §3104.1, in the proper alphabetical order, the following new entry:

TYPE OF SPECIAL EXCEPTION	ZONE DISTRICT	SECTIONS IN WHICH CONDITIONS ARE SPECIFIED
Public school (not meeting the Requirements of Chapter 4).	Any R District	206

Vote of the Zoning Commission taken at its public meeting on July 10, 2006, to **APPROVE** the proposed rulemaking by a vote of **4-0-1** (Carol J. Mitten, Gregory N. Jeffries, John G. Parsons, and Michael G. Turnbull to approve; Anthony J. Hood, not participating, not voting).

This Order was **ADOPTED** by the Zoning Commission at its public meeting on September 25, 2006, by a vote of **3-0-2** (Carol J. Mitten, Gregory N. Jeffries, and Michael G. Turnbull in to adopt; John G. Parsons, not present, not voting; Anthony J. Hood, not participating, 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. 06-06

Z.C. Case No. 06-06

(Text Amendments – 11 DCMR)

(Charter Schools Text Amendments)

September 25, 2006

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. 06-07

Z.C. Case No. 06-07

**(Map Amendment – Square 2930, Lots 73 and 74; and
Square 2931, Lots 48, 49, 77, 78, 79, and 94)**

September 11, 2006

The Zoning Commission for the District of Columbia (the “Commission”), pursuant to its authority under §§ 1 and 3 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, *et seq.*, as amended; D.C. Official Code §§ 6-641.01 and 6-641.03), 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 for a 30-day period of review pursuant to 11 DCMR §§ 3025.3 and 3028.1, hereby gives notice of its adoption of an amendment to the Zoning Map of the District of Columbia that rezones Square 2930, Lots 73 and 74, from C-2-A to R-1-B, and Square 2931, Lots 48, 49, 77, 78, 79, and 94, from C-2-A to R-3.

The Commission took final action to adopt the map amendment at a public meeting held on September 11, 2006.

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

The purpose of this rezoning initiative is to adopt a zoning designation for the subject properties that is not inconsistent with the District Elements of the Comprehensive Plan for the National Capital. The map amendment applies to certain properties located on the south side of Ingraham Street, N.W., the north side of Ingraham Street, N.W., and the south side of Jefferson Street, N.W., all between Georgia Avenue, N.W. and 13th Street, N.W.

The subject properties are currently within the C-2-A (low- and medium-density community business center) Zone District, which runs along both sides of Georgia Avenue, N.W. and extends west from Georgia Avenue to include these properties. The subject properties, however, all front on residential side streets and are designated as medium-density residential by the Comprehensive Plan Generalized Land Use Map.

The properties on the south side of Ingraham Street, N.W. are bordered by an R-1-B Zone District to the west and C-2-A Zone Districts to the north, south, and east. The properties

on the north side of Ingraham Street, N.W. and the south side of Jefferson Street, N.W. are bordered by an R-3 Zone District to the west, C-2-A Zone Districts to the north and east, and C-2-A and R-1-B Zone Districts to the south. To the west of the subject properties, along Ingraham Street, N.W. and Jefferson Street, N.W., are predominantly row dwellings.

The case was initiated by Barry Student, Marsha Nickens, Mary Blake, Linda Dowell, Harold Brooks, Robin Wallace, Janita Cunningham, and Anneliese Bruner, who proposed to rezone all the subject properties from C-2-A to R-3 as a zoning consistency map amendment.

The Zoning Map designates the subject properties within the C-2-A Zone District. The C-2-A Zone District is designed to provide facilities for shopping and business needs, housing, and mixed uses outside of the central core and is located in low- and medium-density residential areas with access to main highways that include offices, shopping centers, and medium-bulk mixed-use centers. The C-2-A Zone District permits a maximum floor area ratio (FAR) of 2.5, of which no more than 1.5 FAR may be devoted to non-residential uses; 50-foot maximum building height; and maximum lot occupancy of 60 percent for residential development and 100 percent for non-residential development.

At the public meeting held on February 13, 2006, the Commission set down for a hearing the petition to rezone the subject properties from C-2-A to R-3. The Commission also set down, in the alternative, the rezoning of the subject properties on the south side of Ingraham Street (Square 2930, Lots 73 and 74) to R-1-B. The Commission indicated that the hearing would be conducted as a rulemaking. A notice of public hearing setting forth both alternatives was published in the *D.C. Register* on March 10, 2006, at 53 DCR 1693, with a Corrected¹ Notice of Public Hearing published on March 24, 2006, at 53 DCR 2190.

At the public hearing held on April 24, 2006, witnesses testified both in favor and against the petition. Advisory Neighborhood Commission (ANC) 4C recommended approval of the petition by resolution dated April 11, 2006.

At the hearing, the Office of Planning ("OP") submitted a final report recommending approval of an R-3 Zone District for the subject properties in Square 2931 and an R-1-B Zone District for the subject properties in Square 2930, because this would be consistent with the Land Use Element and Ward 4 Element of the Comprehensive Plan. In particular, OP stated that the proposed map amendment would further Plan objectives regarding non-residential and disruptive uses in residential neighborhoods (§ 1102.1). OP stated that the map amendment would support the land use designation change to moderate-density residential that includes the subject properties (§ 1139.39). OP also testified that the proposed map amendment would not be inconsistent with the Comprehensive Plan Generalized Land Use Map designation of the subject lots as moderate-density residential.

¹The original Notice of Public Hearing listed incorrect lot numbers for Square 2931.

The Commission left the record open until April 28, 2006 for the filing of the Affidavit of Maintenance. The Affidavit of Maintenance was filed on April 28, 2006.

At its regularly scheduled monthly meeting on May 8, 2006, the Commission took proposed action pursuant to 11 DCMR § 3027 to approve the map amendment to R-3 for the subject lots in Square 2931, as advertised, and the map amendment to R-1-B for the subject lots in Square 2930, as advertised in the alternative. A Notice of Proposed Rulemaking was published in the *D.C. Register* on June 30, 2006 at 53 DCR 5281, for a 30-day notice and comment period. No comments were received. By report dated May 25, 2006, the National Capital Planning Commission found that the proposed map amendment would not adversely affect the identified federal interests nor be inconsistent with the Comprehensive Plan for the National Capital.

At its regularly scheduled public meeting on September 11, 2006, the Commission took final action to approve the map amendment as proposed

In consideration of the reasons set forth herein, the Zoning Commission for the District of Columbia hereby APPROVES a change of zoning from C-2-A to R-1-B for the subject properties on the south side of Ingraham Street, N.W. (Square 2930, Lots 73 and 74) and a change of zoning from C-2-A to R-3 for the subject properties on the north side of Ingraham Street, N.W. and the south side of Jefferson Street, N.W. (Square 2931, Lots 48, 49, 77, 78, 79, and 94).

Vote of the Zoning Commission taken at its public meeting on May 8, 2006 to **APPROVE** the proposed rulemaking: **5-0-0** (Carol J. Mitten, Gregory N. Jeffries, Anthony J. Hood, John G. Parsons, and Michael G. Turnbull to approve).

This Order and Final Rulemaking were **ADOPTED** by the Zoning Commission at its public meeting on September 11, 2006 by a vote of **5-0-0** (Carol J. Mitten, Gregory Jeffries, Anthony J. Hood, John Parsons, and Michael G. Turnbull to adopt).

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

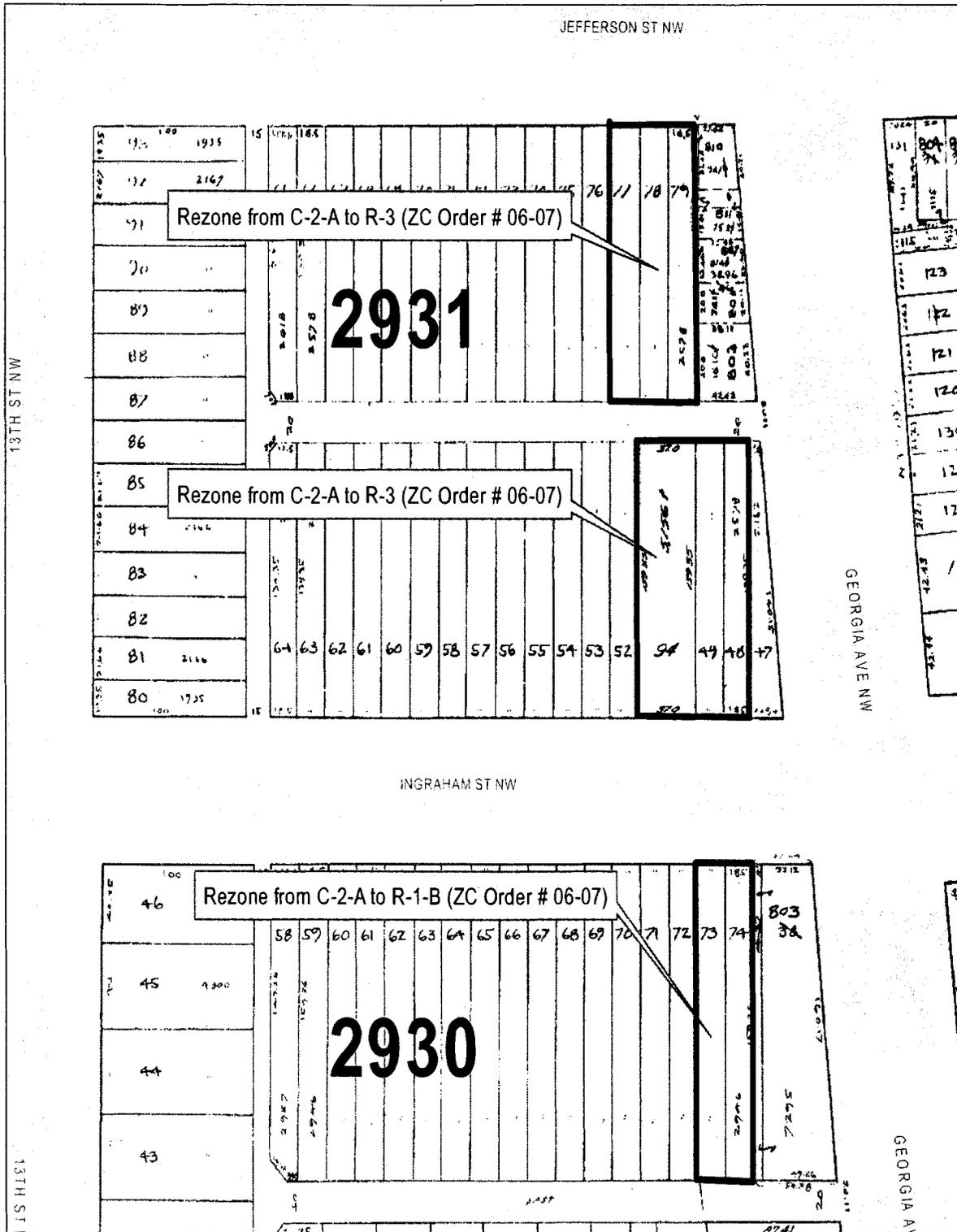
Z.C. ORDER NO. 06-07

Z.C. CASE NO. 06-07

**(Map Amendment – Square 2930, Lots 73 and 74; and
Square 2931, Lots 48, 49, 77, 78, 79, and 94)**

September 11, 2006

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



Z.C. Case No. 06-07