

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
AND
ZONING COMMISSION ORDER NO. 07-30
Z.C. Case No. 07-30
(Map Amendment – 11 DCMR)
(Marshall Heights rezoning from R-5-A to the R-2 or R-3 Zone Districts)
July 14, 2008

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 and 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 the adoption of the following amendment to the Zoning Map of the District of Columbia (11 DCMR).

The Zoning Map of the District of Columbia is amended to rezone the following lots presently zoned R-5-A to the following Zone Districts:

Square:	Lots:	Zone District
5341 (all)	Lots 9-14, 29-34, 36-39, 42-45, 805-807, and 810-813.	R-2
5341 E (all)	Lots 1-40 and 802.	R-2
5342 (all)	Lots 1-11, 14-19, and parcel 193/0065.	R-2
5342 E (all)	Lots 3-14, 801, and 802.	R-2
5350 (part)	Lots 2-8, 11, 12, 17-24, 38, 39, 64-67, 72, 102-108, 111, 113, 114, 117-120, 125, 126, 850, 852, 855, 857, 861, and 862.	R-2
5351 (part)	Lots 64, 74, 75, 85, 90, and 866.	R-2
5352 (part)	Lots 31, 41, and 42.	R-2
5359 (part)	Lots 309-318.	R-2
5362 (part)	Lots 61-63, 175-190, 198-205, 816, and 817.	R-2
5287 (all)	Lots 801, 803, and 805.	R-3
5293 (part)	20-33, 47, 48, 803, 805, and 807.	R-3
5294 (all)	Lots 9-11, 13, 23-31, 39-44, 807, 809, and 2001-2036.	R-3
5295 (all)	Lots 1, 2, 20, 21, 39, 812, and 813.	R-3
5296 (all)	Lots 1-4, 20-22, 803, 805, 807, 809, and 810.	R-3
5297 (all)	Lots 801, 803, 805, and 807.	R-3

Square:	Lots:	Zone District
5298 (all)	Lots 3, 13-17, 31, 32, 801, 803, and 805.	R-3
5299 (all)	Lots 3, 4, 7-13, 16-18, and 28-38.	R-3
5300 (all)	Lots 1-8, 12-23, and 25-31.	R-3
5301 (all)	Lots 13-15, 25-27, 31-35, 803, 807, and 809.	R-3
5302 (part)	Lots 10, 25, and 29-32.	R-3
5303 (part)	Lots 4, 5, 13, 16-19, 28, 35-39, and 809.	R-3
5304 (part)	Lots 22 and 31-34.	R-3
5308 (part)	Lots 35-37.	R-3
5309 (part)	Lots 1, 7-9, 13, 20, 28, 39-43, and 800-803.	R-3
5310 (part)	Lots 1-5, 11, 18-21, 25-30, and 35-39.	R-3
5311 (all)	Lots 1-7, 12-18, 22-27, 31-33, 800, and 801.	R-3
5312 (all)	Lots 2, 7-14, 16, 17, 22-27, and 31-36.	R-3
5313 (all)	Lots 1-6, 8, 11-18, 26, 31, and 33-49.	R-3
5314 (all)	Lots 3-8, 11-17, 21-25, 27, 28, 31-33, 800-802, 805, and 806.	R-3
5315 (all)	Lots 3, 6, 8-10, 18-21, 24, 25, 30-33, and 35-39.	R-3
5316 (all)	Lots 1, 2, 5, 6, 11-14, 22, 25, 26, 32-35, 805, 807-810, and 2001-2024.	R-3
5317 (all)	Lots 1, 6, 8, 9, 13, 31-35, 801, 835, and 837.	R-3
5321 (all)	Lots 9, 10, 15, 23-30, 32, 33, 35, and 2001-2054.	R-3
5322 (all)	Lots 6, 7, 22-24, 29, 30, 32-37, and 2001-2024.	R-3
5323 (all)	Lots 5, 6, 9-15, 27-34, 800, and 2001-2032.	R-3
5324 (all)	Lots 6, 16, 20-24, 31-37, 39, 801, and 802.	R-3
5325 (all)	Lots 1, 10-13, 16-19, 24-26, 31, 33, 34, and 802-805.	R-3
5326 (all)	Lots 3-9 and 16-32.	R-3
5327 (all)	Lots 1-5, 8-15, 18, 25, 26, 31, 32, 35-38, and 800.	R-3
5328 (part)	Lots 21-27, 31, and 32.	R-3
5330 (part)	Lots 24, part of 31, and 32.	R-3
5331 (all)	Lots 2, 8-10, 18-23, 32, 33, 800, 801, 803, 804, and 2001-2073.	R-3
5332 (all)	Lots 1-11, 20, 23-26, 30, 33-35, 801, and 802.	R-3
5333 (all)	Lots 1, 2, 18-21, 31-33, 36, and 802.	R-3
5334 (all)	Lots 801 and 802.	R-3
5336 (all)	Lots 36-44.	R-3
5337 (all)	Lots 1-4, 7, 10-14, 17, 18, 800, and 801.	R-3

Square:	Lots:	Zone District
5338 (all)	Lots 2-7 and 800	R-3

Hereafter, these properties shall be referred to as the “Subject Properties.” They are located in the Marshall Heights Neighborhood, generally south of East Capitol Street and Central Avenue, S.E.; west of Southern Avenue, S.E.; and on or east of Benning Road, S.E. in Ward 7.

The purpose of this rezoning 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 (“Comprehensive Plan”) and more consistent with prevailing neighborhood character.

A Notice of Proposed Rulemaking was published in the *D.C. Register* (“DCR”) on May 16, 2008, at 55 DCR 5791. The Commission took final action to adopt the amendments at a public meeting on July 14, 2008. This final rulemaking is effective upon publication in the *D.C. Register*.

Setdown Proceeding

The Office of Planning (“OP”) initiated this rulemaking by filing a report dated November 9, 2007 with the Commission. The OP report recommended that, consistent with the 2006 Comprehensive Plan, certain properties in the Marshall Heights Neighborhood of Ward 7 be rezoned from R-5-A to R-2 or R-3, to better ensure that any new development is more consistent in form and character with the surrounding neighborhood.

At its regularly scheduled public meeting on November 19, 2007, the Commission considered the petition, and set the case down for a public hearing as a rulemaking case.

Public Hearing

The Commission held a properly noticed public hearing on March 3, 2008 to consider the case.

OP testified in support of the map amendments, noting that the current R-5-A zoning could result in development that is inconsistent with Comprehensive Plan policies and different from the prevailing character of the surrounding neighborhoods. The current R-5-A zoning permits, with Board of Zoning Adjustment approval, multiple dwellings. Infill development sites in the Marshall Heights area have recently been targeted for multiple dwellings within areas that are currently predominantly developed with detached, semi-detached, and row dwellings.

At the public hearing, the Vice-Chair of Advisory Neighborhood Commission (“ANC”) 7E testified that the ANC had passed a resolution recommending that the Commission approve this application to rezone properties within their ANC boundaries from R-5-A to R-2 or R-3, noting that the changes are necessary to reduce the number of apartment structures in areas where they are not compatible with the low density character that typifies most of the community.

Relationship to the Comprehensive Plan

The 2006 Comprehensive Plan for the District of Columbia includes specific references to changing the R-5-A zoning in Wards 7 and 8, including Marshall Heights, where that zone would permit new development that is inconsistent with prevailing development patterns. The Future Land-Use Map of the Comprehensive Plan designates the subject lots as low-to-moderate density residential, and the proposed map amendments from R-5-A to R-2 or R-3 would not be inconsistent with those designations.

Great Weight to the ANC

The Commission is required under D.C. Official Code § 1-309.10(d)(3)(A) to give great weight to the affected ANC's written recommendation. No written recommendation was received into the record.

Proposed Action

Immediately following the public hearing on March 3, 2008, the Commission unanimously took proposed action to approve the map amendment.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on May 16, 2008, at 55 DCR 5791 for a 30-day notice and comment period. No comments were received.

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 February 28, 2008, commented that the proposed text amendment would not adversely affect the identified federal interests.

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 of July 14, 2008, the Commission took final action to approve this amendment to the Zoning Map.

Based on the above, the Commission finds that the proposed amendment to the Zoning Map is in the best interests of the District of Columbia, consistent with the intent and purpose of the Zoning Act and Zoning Regulations, and not inconsistent with the Comprehensive Plan.

Z.C. ORDER NO. 07-30

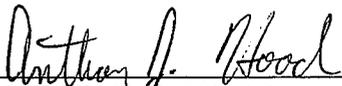
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Vote of the Zoning Commission taken at the conclusion of the public hearing on March 3, 2008 to **APPROVE** the proposed rulemaking: **5-0-0** (Gregory N. Jeffries, Michael G. Turnbull, Anthony J. Hood, Curtis L. Etherly, Jr., and Peter G. May to approve.)

Vote of the Zoning Commission taken at a regularly scheduled public meeting on July 14, 2008 to **ADOPT** the final rulemaking: **5-0-0** (Anthony J. Hood, Curtis L. Etherly, Jr., Gregory N. Jeffries, and Michael G. Turnbull to adopt; Peter G. May to adopt by absentee ballot).

In accordance with the provisions of 11 DCMR § 3028.9, this Order shall become effective upon publication in the D.C. Register, on SEP 19 2008.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



JERRILY R. KRESS, FAIA 2
DIRECTOR
OFFICE OF ZONING

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



Z.C. CASE NO.: 07-30

SEP 16 2008

As Secretary to the Commission, I hereby certify that on _____ copies of this Z.C. Order No. 07-30 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

1. *D.C. Register*
2. Naomi P. Robinson, Chair
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Washington, D.C. 20019
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ANC/SMD 7E03
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11. Office of Planning (Harriet Tregoning)
12. DDOT (Karina Ricks)
13. Zoning Administrator (Matthew
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15. Office of the Attorney General
(Alan Bergstein)
16. Phillip Appenbaum, Chief Assessor
D.C. Assessor's Office
941 N. Capitol St. - 4th Floor

ATTESTED BY:

A handwritten signature in cursive script that reads "Sharon S. Schellin".

Sharon S. Schellin
Secretary to the Zoning Commission
Office of Zoning