

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



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

Z.C. ORDER NO. 10-02

Z.C. Case No. 10-02

(Text Amendment to § 701.4 (w) - to Allow a Fast Food Establishment with no Drive-Through in Square 3499, Lot 3 and in Square 3664, Lot 8209 as a Matter of Right)
November 29, 2010

The Zoning Commission for the District of Columbia (the “Commission”), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01); hereby gives notice of adoption of the following text amendment to the Zoning Regulations of the District of Columbia, DCMR Title 11. A Notice of Proposed Rulemaking was published in the *D.C. Register* on October 29, 2010 at 57 DCR 10223. The amendments shall become effective upon the publication of this notice in the *D.C. Register*.

Description of Amendments

The amendments permit a fast food establishment with no drive-through to locate in Square 3499, Lot 3, and in Square 3664, Lot 820, as a matter of right use.

Procedures Leading to Adoption of Amendments

A petition requesting the amendment was filed by Horning Brothers (d.b.a. Trinity Commercial LP and Heights Commercial LP). The Commission voted to set down the proposal for hearing at its June 14, 2010 public meeting.

The Commission gave Advisory Neighborhood Commission (“ANC”) 5C notice pursuant to § 13 of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10. No written report was received.

A public hearing was scheduled for and held on October 7, 2010, after which the Commission authorized the referral of the proposed text to the National Capital Planning Commission (“NCPC”) and the publication of a notice of proposed rulemaking in the *D.C. Register*.

NCPC, through a delegated action dated October 28, 2010, found that the proposed text amendments would not adversely affect the identified federal interests, nor be inconsistent with the Comprehensive Plan for the National Capital. (Exhibit No. 27.)

The Notice of Proposed Rulemaking was published in the *D.C. Register* on October 29, 2010, at 57 DCR 10223 for a 30-day notice and comment period. No comments were received.

At a properly noticed November 29, 2010 public meeting, the Commission took final action to adopt the text amendments as follows:

Chapter 7, **COMMERCIAL DISTRICTS**, § 701 USES AS A MATTER OF RIGHT (C-1), § 701.4(w) is amended by inserting the phrase “, Square 3499 (Lot 3) and Square 3664 (Lot 820)” after the phrase “Square 5912”, so that the provision will read as follows:

- (w) Restaurant, but not including a fast food establishment or a food delivery service. A fast food establishment with no drive-through shall be permitted in Square 5912, Square 3499 (Lot 3), and Square 3664 (Lot 820) as a matter of right.

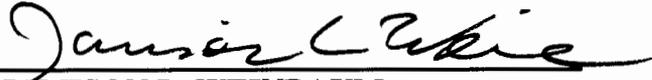
On October 7, 2010, upon motion of Chairman Hood, as seconded by Commissioner Selfridge, the Zoning Commission **APPROVED** the petition at the conclusion of the public hearing by a vote of **5-0-0** (Anthony J. Hood, Konrad W. Schlater, Greg M. Selfridge, Peter G. May, and Michael G. Turnbull to approve).

On November 29, 2010, upon motion of Vice Chairman Schlater, as seconded by Commissioner Turnbull, the Zoning Commission **ADOPTED** the Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Konrad W. Schlater, Greg M. Selfridge, Peter G. May, 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 December 24, 2010.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



JAMISON L. WEINBAUM
DIRECTOR
OFFICE OF ZONING

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November 29, 2010

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.: 10-02

As Secretary to the Commission, I hereby certify that on **DEC 21 2010** copies of this Z.C. Order No. 10-02 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

1. *D.C. Register*
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8. DDOT (Karina Ricks)
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10. Office of the Attorney General (Alan Bergstein)

ATTESTED BY:

A handwritten signature in black ink, appearing to read "S. S. Schellin", is written over a horizontal line.

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