

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



MEMORANDUM

To: Arnold R. Finlayson, Administrator
Office of Documents and Administrative Issuance

From: Sharon S. Schellin *SS*
Secretary to the Zoning Commission

Date: July 9, 2006

Re: Publication for the Office of Zoning

Please publish the following in the *D C Register* on July 21, 2006

- 1 Z C Notice of Filing (Case No. 06-30),
- 2 Z C Notice of Filing (Case No. 06-31),
- 3 Z C Notice of Filing (Case No. 06-32),
- 4 Z C Notice of Filing (Case No. 06-34),
- 5 Z C Notice of Emergency Rulemaking (Case No. 06-06),
- 6 Z C Notice of Final Rulemaking & Order No. 05-20 (Case No. 05-20), *2 copies SS*
- 7 Z C Notice of Public Hearing (Case No. 04-14),
- 8 Z C Notice of Public Hearing (Case No. 05-02),
- 9 Z C Notice of Public Hearing (Case No. 05-42),
- 10 Z C Notice of Public Hearing (Case Nos. 06-11 & 06-12),
- 11 Z C Notice of Public Hearing (Case No. 06-19),
- 12 Z C Notice of Public Hearing (Case No. 06-25),
- 13 Z C Order No. 05-15 (Case No. 05-15), and
- 14 Z C Order No. 05-19 (Case No. 05-19).

The Final Rulemaking (item 6 above) is also included on the enclosed diskette

ZONING COMMISSION
District of Columbia

Attachments

CASE NO. 05-02
EXHIBIT NO. 29

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ZONING COMMISSION
District of Columbia
CASE NO. 05-02
EXHIBIT NO. 29

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FURTHER PUBLIC HEARING**

TIME AND PLACE:

**Monday, November 6, 2006, @ 6:30 p.m.
Office of Zoning Hearing Room
441 4th Street, N.W., Suite 220-South
Washington, D.C. 20001**

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 05-02 (Text Amendment - Residential Recreation Space)

THIS CASE IS OF INTEREST TO ALL ANC'S.

On March 4, 2005, the Office of Planning ("OP") petitioned for set down of a text amendment to amend the provisions of the Zoning Regulations pertaining to residential recreation space requirements in the C (Commercial), CR (Mixed Use Commercial Residential) and SP (Special Purpose) zone districts. At its meeting of March 14, 2005, the Zoning Commission set down the case, Case No 05-02, for public hearing.

The Zoning Commission held a public hearing on OP's petition on June 27, 2005, pursuant to the Notice of Public Hearing published on April 8, 2005, at 52 *D C Register* 3600. At the hearing, OP recommended reducing the amount of recreation space required in those zones where it is currently required, creating a special exception process for relief from residential recreation space requirements, and several other minor amendments to alleviate some of the difficulties encountered when trying to comply with the residential recreation space provisions. There was little testimony in support of reducing the amount of recreation space required or creating a special exception process to allow relief from the requirements. Instead, the testimony was overwhelmingly in favor of doing away with the residential recreation requirements altogether.

On September 15, 2005, Z.C. Case No 05-02 was before the Zoning Commission for proposed action. The Commission decided to change course and re-advertise the case to repeal all residential recreation space provisions. In November, 2005, the Office of Planning requested that, before re-advertisement, it be permitted to prepare an additional set-down report examining the reallocation of some of the now-required residential recreation space toward the affordable housing component of the inclusionary zoning provisions currently being considered by the Commission.

On March 3, 2006, OP filed a new set-down report linking the elimination of the residential recreation space requirements with the provision of affordable housing, while retaining many of the regulatory changes recommended in the original set-down report. In its March 3, 2006 report, OP continued to recommend permitting incidental and accessory roof-top enclosed areas for recreation space, and not just for swimming pools, as the regulation now states. OP also continued to recommend reduction of the minimum dimension for roof-top recreation space from 25 feet to 8 feet, as well as several technical wording changes to improve the clarity and

consistency of the regulations. Concerning the linkage between residential recreation space and affordable housing, OP recommends generally that the residential recreation space requirement be eliminated for properties mapped within the Inclusionary Zoning Overlay and that, for properties not within this Overlay, the replacement of recreation space with housing be permitted provided that 25% of this housing be affordable housing.

On March 13, 2006, at a public meeting, the Commission decided not to withdraw its earlier decision to hold a hearing on whether recreation space requirements should be entirely repealed. Instead, the Commission decided to re-advertise this case in the alternative and to undertake a two stage decision making approach. Therefore, a public hearing will be held to hear testimony as to whether the residential recreation requirements should be repealed in their entirety and, if not, whether OP's alternative recommendation should be adopted. At the time the Commission considers proposed action on this case, it will first consider the repeal proposal. If it takes proposed action to repeal the provisions, the OP alternative will be held in abeyance. If the Commission decides not to repeal the provisions, the Commission will then go on to consider the alternative proposed.

The text amendment language for both alternatives is set forth below.

I The first alternative proposed text amendment is set forth below.

Title 11 DCMR (Zoning) is proposed to be amended as follows, with existing language in standard print and new language bolded and underlined.

A **CHAPTER 1, THE ZONING REGULATIONS** – Delete the definition of “Residential recreation space” from § 199.1, DEFINITIONS.

B **CHAPTER 4, RESIDENCE DISTRICTS HEIGHT, AREA, AND DENSITY REGULATIONS¹**

411 **ROOF STRUCTURES (R)**

411.1 To exercise a reasonable degree of architectural control upon roof structures in all districts, housing for mechanical equipment, stairway and elevator penthouses, and, when not in conflict with An Act To Regulate the Height of Buildings in the District of Columbia, approved June 10, 1920 (36 Stat. 452, as amended, D.C. Official Code, §§ 6-601.01 to 6-601.09 (formerly codified at D.C. Code §§ 5-401 to 5-409, 1994 Repl. & 1999 Supp.)), penthouses for storage and toilets incidental and accessory to roof swimming pools or recreation space shall be subject to conditions and variable floor area ratio credit specified in this section.

¹ Although the first alternative proposed text amendment would repeal all the required residential recreation space provisions, this minor text amendment, which was advertised as Part A in the original Notice of Public Hearing, remains for the Zoning Commission's deliberation. This is because this particular text amendment refers to all generic recreation space, and not only to the “required” residential recreation space which will be eliminated if the Commission adopts this first alternative. It is really an ancillary or associated text amendment, which would continue to have meaning even if the other residential recreation space provisions are repealed.

- C **CHAPTER 5, SPECIAL PURPOSE DISTRICTS (SP)** – Delete section 533, Residential Recreation Space (SP), including all subsections 533 1 through 533 11
- D **CHAPTER 6, MIXED USE COMMERCIAL RESIDENTIAL DISTRICTS (CR)** – Delete § 635, Residential Recreation Space (CR), including all subsections 635 1 through 635 4
- E **CHAPTER 7, COMMERCIAL DISTRICTS (C)** – Delete § 773, Residential Recreation Space (C), including all subsections 773 1 through 773 10.
- F **CHAPTER 17, DOWNTOWN DEVELOPMENT OVERLAY DISTRICT (DD)**
 - a Delete § 1706 4(f)
 - b Delete § 1706 5(f)
- G **CHAPTER 18, SOUTHEAST FEDERAL CENTER OVERLAY DISTRICT (SEFC)** – Delete § 1803 12

II The second alternative proposed text amendment is set forth below

Title 11 DCMR (Zoning) is proposed to be amended as follows, with existing language in standard print, new language bolded and underlined, and deleted language shown in ~~striketrough~~ lettering.

B **CHAPTER 4 RESIDENCE DISTRICTS: HEIGHT, AREA, AND DENSITY REGULATIONS**

411 ROOF STRUCTURES (R)

- 411 1 To exercise a reasonable degree of architectural control upon roof structures in all districts, housing for mechanical equipment, stairway and elevator penthouses, and, when not in conflict with An Act To Regulate the Height of Buildings in the District of Columbia, approved June 10, 1910 (36 Stat 452, as amended, D.C. Code, 2001 Ed §§ 6-601 01 to 6-601 09 (formerly codified at D C Code §§ 5-401 to 5-409 (1994 Repl & 1999 Supp))), penthouses for storage and toilets incidental and accessory to roof swimming pools or recreation space shall be subject to conditions and variable floor area ratio credit specified in this section.

C **CHAPTER 5 SPECIAL PURPOSE (SP)**

533 RESIDENTIAL RECREATION SPACE (SP)

- 533 1 When all or a portion of a building in an SP District is devoted to a residential use other than a one-family dwelling, flat, or hotel, residential recreation space shall be provided

- 533.2 The recreation space shall be safe, secure, and equipped or landscaped for the active or passive recreation use of the residents
- 533.3 The recreation space shall be provided as specified in §§ 533.4 through 533.11
- 533.4 An area equal to not less than ten percent (10%) of the gross floor area devoted to residential use shall be provided as residential recreation space.
- 533.5 Residential recreation space may be located at ground level, on or above the residential plane, on rooftops, or within a building or ~~other~~ structure
- 533.6 The area of a balcony shall not be counted to satisfy the residential recreation space requirement of a building where the balcony, or portion of it, adjoins an individual residential unit and is accessible only from that unit
- 533.7 Rooftops that contain recreation space may have a parapet wall not to exceed five feet (5 ft) in height
- 533.8 ~~If a~~ Any portion of a roof is to be used for residential recreation space, ~~the roof area~~ shall have no dimension less than ~~twenty-five~~ eight (8) feet ~~(25 ft.)~~
- 533.9 No less than fifty percent (50%) of the total residential recreation space shall be outdoors
- 533.10 Residential recreation space shall be physically accessible to all residents of the building served by that space
- 533.11 The floor area devoted to residential recreation space shall not be counted in determining the amount of off-street parking spaces or loading berths
- 533.12 Notwithstanding §533.1, residential recreation space need not be provided within any area mapped within an Inclusionary Zoning Overlay District.**
- 533.13 Notwithstanding §533.1, residential recreation space need not be provided within any area not mapped within an Inclusionary Zoning Overlay District, provided that not less than twenty-five percent (25%) of the gross floor area otherwise required to be devoted to residential recreation space shall be provided as affordable housing in conformance to the regulations of the Inclusionary Zoning Overlay District, DCMR 11 Chapter 26.**

D CHAPTER 6 MIXED USE COMMERCIAL RESIDENTIAL (CR)

635 RESIDENTIAL RECREATION SPACE (CR)

- 635.1 ~~Private residential recreation space shall be that space suitably equipped and devoted to active or passive recreation for the residents of a particular residential building or structure.~~ When all or a portion of a building in a CR District is devoted to a residential use, including dwellings, flats, multiple dwellings, rooming and boarding houses, and community-based residential facilities, residential recreation space shall be provided.
- 635.2 Private residential recreation space may be located at ground level, on or above the residential plane, on rooftops, or within the building or structure. ~~provided, that seventy percent (70%) of the total of this space shall be open to the sky.~~
- 635.3 An area equal to not less than fifteen percent (15%) of the gross floor area devoted to residential ~~purposes~~ use shall be provided as private residential recreation space, in accordance with the provisions of § 635.2 and §§ 635.4 through 635.8
- 635.4 ~~For the purposes of this section, the phrase "residential purposes" shall include dwellings, flats, multiple dwellings, rooming and boarding houses, and community-based residential facilities. No less than~~ seventy percent (70%) of the total of this space residential recreation space shall be open to the sky outdoors²
- 635.5 The private residential recreation space shall be safe, secure, and equipped or landscaped for the active or passive recreation use of the residents.
- 635.6 Rooftops that contain recreation space may have a parapet wall not to exceed five feet (5 ft.) in height.
- 635.7 Any portion of a roof to be used for residential recreation space shall have no dimension less than eight (8) feet.
- 635.8 The floor area devoted to residential recreation space shall not be counted in determining the amount of off-street parking spaces or loading berths.
- 635.9 Notwithstanding § 635.1, residential recreation space need not be provided within any area mapped within an Inclusionary Zoning Overlay District.

² The term "open to the sky" in this zone could be defined as more restrictive than the term "outdoors" used in other regulations

635.10 Notwithstanding §635.1, residential recreation space need not be provided within any area not mapped within an Inclusionary Zoning Overlay District, provided that not less than twenty-five percent (25%) of the gross floor area otherwise required to be devoted to residential recreation space shall be provided as affordable housing in conformance to the regulations of the Inclusionary Zoning Overlay District, DCMR 11 Chapter 26.

E CHAPTER 7 COMMERCIAL (C)

773 RESIDENTIAL RECREATION SPACE (C)

773 1 When all or a portion of a building in a C-1, C-2, C-3, C-4, or C-5 (PAD) District is devoted to a residential use other than a one-family dwelling, flat, or hotel, recreation space shall be provided. ~~that is safe, secure, and suitably equipped or landscaped for the active or passive recreation use of the residents.~~

773 2 The residential recreation space required in § 773 1 shall be provided **in accordance with the provisions of §§ 773.4 through 773.11**

773 3 An area equal to not less than the following percentage of the gross floor area devoted to residential use shall be provided as residential recreation space

ZONE DISTRICT	MAXIMUM PERCENTAGE OF GROSS FLOOR AREA
C-1, C-2-A	20%
C-2-B, C-2-C, C-3-A	15%
C-3-B, C-3-C	10%
C-4, C-5 (PAD)	5%

773 4 Residential recreation space may be located at ground level, on or above the residential plane, on rooftops, or within a building or ~~other~~ structure

773 5 The area of a balcony shall not be counted to satisfy the residential recreation space requirement of a building where the balcony or a portion of it adjoins an individual residential unit and is accessible only from that unit

773 6 Rooftops that contain recreation space may have a parapet wall not to exceed five feet (5 ft.) in height

773 7 ~~If~~ Any portion of a roof ~~is~~ to be used for residential recreation space, ~~the roof area~~ shall have no dimension less than ~~twenty-five~~ **eight (8)** feet ~~(25 ft.)~~

773 8 No less than fifty percent (50%) of the total residential recreation space shall be outdoors

773.9 Residential recreation space shall be physically accessible to all residents of the building served by that space

773.10 The floor area devoted to residential recreation space shall not be counted in determining the number of off-street parking spaces or loading berths

773.11 The recreation space shall be safe, secure, and equipped or landscaped for the active or passive recreation use of the residents.

773.12 Notwithstanding § 773.1, residential recreation space need not be provided within any area mapped within an Inclusionary Zoning Overlay District.

773.13 Notwithstanding § 773.1, residential recreation space need not be provided within any area not mapped within an Inclusionary Zoning Overlay District, provided that not less than twenty-five percent (25%) of the gross floor area otherwise required to be devoted to residential recreation space shall be provided as affordable housing in conformance to the regulations of the Inclusionary Zoning Overlay District, DCMR 11 Chapter 26.

G CHAPTER 18 SOUTHEAST FEDERAL CENTER OVERLAY (SEFC)

1803 SEFC/CR DISTRICT

1803.12 Notwithstanding § ~~635.3~~ **635.1**, within the SEFC/CR District, an area equal to a minimum of five percent (5%) of the gross floor area devoted to residential purposes shall be provided as ~~private~~ residential recreation space. This requirement may be met anywhere within the square wherein the residential building is located

The public hearing on this case will be conducted in accordance with the provisions of § 3021 of the District of Columbia Municipal Regulations, Title 11, Zoning. Pursuant to § 3020, the Commission will impose time limits on testimony presented to it at the public hearing.

All individuals, organizations, or associations wishing to testify in this case should file their intention to testify in writing. Written statements, in lieu of personal appearances or oral presentations, may be submitted for inclusion in the record.

Information responsive to this notice should be forwarded to the Director, Office of Zoning, Suite 210, 441 4th Street, N.W., Washington, D.C. 20001. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

CAROL J. MITTEN, ANTHONY J. HOOD, GREGORY JEFFRIES, JOHN G. PARSONS, AND MICHAEL G. TURNBULL, ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY JERRILY R. KRESS, FAIA, DIRECTOR, AND BY SHARON SCHELLIN, ACTING SECRETARY TO THE ZONING COMMISSION.