

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF PLANNING



Office of the Director

**Memorandum**

**TO:** District of Columbia Zoning Commission  
**FROM:** Jennifer Steingasser *JS*  
Deputy Director  
**DATE:** November 30, 2007  
**SUBJECT:** Supplemental Report – Zoning Commission Case 05-05  
Proposed Text Amendment to Permit Emergency Shelters in the Commercial-Light  
Manufacturing (C-M-1 and C-M-2) Districts

ZONING COMMISSION  
District of Columbia  
CASE NO. 05-05  
EXHIBIT NO. 13

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This Report addresses concerns raised by the Zoning Commission at the time of proposed action regarding the District of Columbia facility at 2210 Adams Place, NE and requests revisions to the proposed text to better reflect the Commission's intent.

**2210 Adams Place, NE**

The shelter which is operated by the Department of Human Services was opened under the Hyperthermia Act in the winter of 2006. The shelter can accommodate up to 150 persons and operates between 7:00 pm and 7:00 am. The facility only provides shelter and no other social services are provided. The shelter does not provide any transportation or money for transportation. Persons who require shelter make their way to and from the shelter independently by walking or public transportation. A certificate of occupancy was never applied for.

**Revised Amendment**

As originally advertised, proposed § 802.21 (b) read

802.21 An emergency shelter for five (5) to one hundred and fifty (150) persons, not including resident supervisors or staff and their families, shall be permitted in C-M-1 and C-M-2 Districts only if the following requirements are met

- (c) Emergency shelters shall not be located within one thousand (1,000) feet of a square containing a wastewater treatment facility or **a solid waste handling facility.**  
(Emphasis added)

ZONING COMMISSION  
District of Columbia

CASE NO. 05-05

Because the shelter at 2210 Adams Place, N E is located approximately 200 feet from an existing solid waste handling facility, OPM requested that language be added to this amendment to accommodate the continued operation of the facility. In the alternative OP, in its February 2, 2007 report, requested that the Commission reconsider the thousand foot set back, noting that § 804.2 allows solid waste handling facilities to be 300 feet from residential uses and 50 feet from institutional purposes. OP also noted that emergency shelters are similar to institutional uses. The OP Report included the following revised text:

- (c) **Except for the District of Columbia's operation of an emergency shelter at 2210 Adams Place, N E (Square 4259, Parcel 54/81), emergency shelters shall not be located within one thousand (1,000) feet of a square containing a sewerage treatment plant, a wastewater treatment facility, or solid waste handling facility documented contaminated site.**

The Commission will note that the revision proposed to eliminate the reference to "solid waste facility" substitute the phrase "documented contaminated site," and exempt the Adams Place Facility from a proximity requirement that, as revised, no longer affected it. Because the Commission took proposed action after a general discussion of the OP report, the Office of the Attorney General drafted a notice of proposed rulemaking which contained the revised text as quoted above.

The Office of Planning and the Office of the Attorney General are concerned that this text may not have accurately reflected the Commission's position. In addition, both OP and OAG recommend the elimination of the reference to a "documented contamination site." The term does not appear in either the District or United States Codes.

In addition, the Office of Planning recommends that the Adams Place facility be permitted as a matter of right regardless of its proximity to a solid waste handling facility, provided it obtains a Certificate of Occupancy within a year of the adoption of the proposed amendment. The Office of Planning believes the Commission has analyzed the impact of this shelter to the same extent as the Board of Zoning Adjustment would have considered a special exception application. However OP believes that the facility cannot be absolved of the legal obligation to possess a certificate of occupancy.

Finally, the Office of the Attorney General is requesting a change to the subsection within 11 DCMER 821 being amended to disallow emergency shelters with the M zone district. Section 821 lists the uses that are permitted in M Zones as a matter of right.

The notice of proposed rulemaking proposed to amend § 821.2 as follows:

821.2 Any uses permitted in a C-M District under §§ 801.2 and 801.4 through 801.10, **except emergency shelters.**

OAG points out that the Commission did not propose to amend §§ 801.2 and 801.4 through 801.10 to permit emergency shelters so there is no need to specifically exempt the use.

Instead, OAG recommends adding the exception to § 821.3, which now reads:

821.3 Any other lawful use not regulated by §§ 822 or 823 shall be permitted, subject to the standards of external effects in § 825.

Because emergency shelters are not regulated as a special exception under § 822 or as a prohibited use under § 823, it would be considered one of the “other lawful uses” permitted in the M zone unless exempted from the scope of that provision

OP therefore recommends that the following changes to the text published in the Notice of Proposed Rulemaking

1 Add a new § 801 11 to read as follows

801 11 The emergency shelter located at 2210 Adams Place, N E. (Square 4259, Parcel 54/81) shall be permitted as a matter of right in the C-M district, provided that a Certificate of Occupancy as an emergency shelter is obtained within one year of the effective date of this amendment

2 Revise § 802 21(c) to read as follows

(c) Emergency shelters shall not be located within one thousand (1,000) feet of a square containing a sewerage treatment plant, a wastewater treatment facility, or a solid waste handling facility,

3 Strike the amendment to § 821 2 and amend § 821 3 to read as follows

821 3 Any other lawful use not regulated by §§ 822 or 823 shall be permitted, subject to the standards of external effects in § 825, except emergency shelters.

**ATTACHMENT:**

1 Proposed text

JS/mbr

# ATTACHMENT 1

November 30, 2007

## Proposed Text Amendment to Add Emergency Shelters to the C-M-1 and C-M-2 Zones

Add a new § 801.11 to read as follows:

“801.11 The emergency shelter located at 2210 Adams Place, N E. (Square 4259, Parcel 54/81) shall be permitted as a matter of right in the C-M district , Provided that a Certificate of Occupancy as an emergency shelter is obtained within one year of the effective date of this amendment. “

Amend § 821.3 to read as follows (**new text is shown in bold and underline**).

“821.3 Any other lawful use not regulated by §§ 822 or 823 shall be permitted, subject to the standards of external effects in § 825, **except emergency shelters.**

Add a new subsection **802.28** to read as follows:

“802 28 An emergency shelter for five (5) to one hundred and fifty (150) persons, not including resident supervisors or staff and their families, shall be permitted in a C-M-1 and C-M-2 Districts only, if the following requirements are met:

- (a) There shall be no other property containing an emergency shelter for five (5) or more persons in the same square;
- (b) There shall be no other property containing an emergency shelter for five (5) or more persons within a radius of one thousand (1,000) feet from any portion of the property;
- (c) Emergency shelters shall not be located within one thousand (1,000) feet of a square containing a sewerage treatment plant, a wastewater treatment facility, or a solid waste handling facility;
- (d) There shall be adequate, appropriately located, and screened off-street parking to provide for the needs. of occupants, employees, and visitors to the facility;
- (e) The shelter shall not have any adverse impact on the neighborhood because or traffic, noise, operations, or the number of similar facilities in the area;

- (f) Notwithstanding 802 21 (b) the Board may approve up to one additional emergency shelter to be located in the same square as an existing emergency shelters for five (5) or more persons only if the Board finds that the cumulative effect of the two facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations;
- (g) The Board may approve a facility for between one hundred and fifty-one (151) and three hundred (300) persons, not including resident supervisors or staff and their families, only if the Board finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location and there is no other reasonable alternative to meet the program needs of that area of the District provided that no shelter shall be approved that would increase the total number of emergency shelter residents housed within the square to exceed four hundred and fifty (450) persons, and
- (h) The Board shall submit the application to the D.C. Office of Planning for coordination, review, report, and impact assessment, along with reports in writing of all relevant District departments and agencies, including but not limited to the Departments of Transportation and Human Services and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.”