

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*
Acting Secretary to the Zoning Commission

DATE: March 2, 2006

SUBJECT: Publication for the Office of Zoning

Please publish the following in the *D.C. Register* on March 10, 2006:

1. Z.C. Notice of Filing (Case No. 06-04);
2. Z.C. Notice of Filing (Case No. 06-08);
3. Z.C. Notice of Filing (Case No. 06-10);
4. Z.C. Notice of Filing (Case No. 06-12);
5. Z.C. Notice of Filing (Case No. 06-13);
6. Z.C. Notice of Public Hearing (Case No. 06-07);
7. Z.C. Notice of Public Hearing (Case No. 06-09);
8. Z.C. Notice of Public Hearing (Case No. 06-05);
9. Z.C. Notice of Emergency and Proposed Rulemaking (Case No. 06-05); and
10. Z.C. Notice of Proposed Rulemaking (Case No. 04-33); and
11. Z.C. Notice of Final Rulemaking (Case No. 04-27) – two copies provided and also on the attached diskette.

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Attachments

ZONING COMMISSION
District of Columbia

Case 06-05

Exhibit 2

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

TIME AND PLACE: **Thursday, May 4, 2006, @ 6:30 P.M.**
 Office of Zoning Hearing Room
 441 4th Street, N.W. Suite 220
 Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

Case No. 06-05 (Text Amendment – Removing the reference to R-4 Districts from Section 410, Special Exceptions for Groups of Residential Buildings)

THIS CASE IS OF INTEREST TO ALL ANCs

The Office of Planning, through a report dated February 2, 2006, requested a text amendment to strike the reference to the R-4 Zone District from subsection 410 12 of the Zoning Regulations (DCMR Title 11) ¹ The Office of Planning's report served as the pre-hearing submittal for the case. Section 410 permits an exception to the rule that no more than one principal structure may be built on a single record lot in residence zones, by authorizing the Board of Zoning Adjustment ("BZA") to deem such multiple structures to be a single building in R-4 and R-5 Districts. The proposed text amendment would no longer allow this relief to properties located in an R-4 District.

This case was set down for hearing on February 13, 2006, at which time the Commission also adopted the rule on an emergency basis and authorized the publication of a notice of proposed rulemaking ² In addition, the Commission also authorized the advertisement of an alternative amendment that would repeal § 410 in its entirety. The Commission also waived § 3013.1 of its rules of procedures, which would have required a twenty-day waiting period before publication.

The following amendments to Title 11 of the District of Columbia Municipal Regulations (ZONING) are proposed in the alternative:

A. Section 410 in Chapter 4 RESIDENCE DISTRICTS HEIGHT, AREA AND DENSITY REGULATIONS of Title 11 (DCMR) is amended as follows:

1. The heading is amended to read as follows:

410 SPECIAL EXCEPTIONS FOR GROUPS OF RESIDENTIAL BUILDINGS IN
R-5 DISTRICTS

¹ The version of § 410 12 that appears in the current edition of the Zoning Regulations does not contain this reference, but the prior edition of Title 11 did. A review of all amendments made to § 410 12 between the publications dates of the two editions reflects no amendment to § 410 12. However, the Commission has been advised by the Office of the Attorney General that all of § 410 12 may have been repealed in 1970.

² A Notice of Emergency and Proposed Rulemaking is being published elsewhere in the same edition of the *D C Register*.

2 Section 410 12 is amended by striking the phrase "In the R-5-A and R-4 Districts," and inserting the phrase "In an R-5-A District," in its place, or

B Section 410 in Chapter 4 RESIDENCE DISTRICTS. HEIGHT, AREA AND DENSITY REGULATIONS of Title 11 (DCMR) is repealed

Proposed amendments to the Zoning Regulations and Map of the District of Columbia are authorized pursuant to the Zoning Act of June 20, 1938, (52 Stat 797), as amended, D C. Official Code § 6-641 01 (2001), *et seq*

The public hearing on this case will be conducted as a rulemaking in accordance with the provisions of Section 3021 of the District of Columbia Municipal Regulations, Title 11, Zoning Pursuant to that section, 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 should be forwarded to Sharon Schellin, the Secretary of the Zoning Commission, Office of Zoning, Suite 200, 441 4th Street, N W , Washington, D C , 20001 Please include the number of this particular case and your daytime telephone number **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

CAROL J. MITTEN, ANTHONY J. HOOD, GREGORY N. 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.

RULEMAKING TRANSMITTAL FORM

TYPE OF RULEMAKING ACTION: ☐ EMERGENCY RULES
☐ FINAL RULES ☐ PROPOSED RULES ☒ COMBINED

DATE AND TIME RECEIVED

Office of Documents use only

AGENCY: OFFICE OF ZONING

AGENCY REPRESENTATIVE: SHARON SCHELLIN

ADDRESS 441 4th Street, N W , Suite 210 South TELEPHONE

TITLE AND DESCRIPTION OF RULES Case No 06-05 (Text Amendment – Removing the reference to R-4 Districts from Section 410, Special Exceptions for Groups of Residential Buildings)

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed Title 11 (Zoning) Section 410

FINAL RULES ONLY Give the D C REGISTER citation and date of publication of the Notice of Proposed Rulemaking for these rules DCR DATE

COMPLETE CITATION to the statute, regulation, or other legal authority which specifically authorizes the issuance of the substance of these rules Section 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat 797, 799 D C Official Code § 6-641 01)

LEGAL CERTIFICATION: I certify that I have reviewed the attached rulemaking and, in my opinion, the substance of the text of the rules is legally sufficient

DATE FEBRUARY 28, 2006 SIGNED *Robert J. Spagnoletti* for PHONE (202) 442-9777

☒ FINAL

☐ CONDITIONAL

NAME: ROBERT J SPAGNOLETTI TITLE ATTORNEY GENERAL

PROMULGATOR. Name and title of the person legally authorized to adopt and promulgate these rules (or the name of the board or other body authorized to adopt rules by vote)
Zoning Commission For The District Of Columbia Title

COMPLETE CITATION to the statute, regulation, order, or other legal authority that specifically authorizes this person or agency to adopt and promulgate these rules

SIGNATURE OF THE PERSON AUTHORIZED TO ADOPT RULES OR ATTEST TO THE ADOPTION OF RULES

DATE OF APPROVAL OF VOTE

2/13/06

APPROVAL OF ATTEST

Sharon J. Schellin
Acting

Secretary to the Zoning Commission

TITLE.

PHONE (202) 727-0330

Office of Documents use only.

THIS NOTICE PUBLISHED AT

VOL

DCR.

DATE

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF EMERGENCY AND PROPOSED RULEMAKINGS**

Case No. 06-05

**(Text Amendment – Removing the reference to R-4 Districts from Section 410, Special
Exceptions for Groups of Residential Buildings)**

February 13, 2006

The Zoning Commission for the District of Columbia, pursuant to the authority set forth in section 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, D.C. Official Code § 6-641.01 (2001)) and section 6 (c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206, D.C. Official Code § 2-505 (c) (2001)) hereby gives notice of the adoption, on an emergency basis, of amendments to § 410 of the Zoning Regulations (11 DCMR) to strike the reference to the R-4 Zone District from subsection 410.12.¹ Section 410 permits an exception to the rule that no more than one principal structure may be built on a single record lot in residence zones, by authorizing the Board of Zoning Adjustment (“BZA”) to deem such multiple structures to be a single building in R-4 and R-5 Districts.

This action is being taken on an emergency basis because of 1) the influx of recent, and the anticipation of future, special exception requests under § 410 to allow development projects of multiple units in the R-4 Zone District, and 2) the adverse land use and character implications for the R-4 Zone if multiple units can continue to be deemed a single building in that district. The current rule promotes the transformation of the R-4 District into an apartment house district, contrary to the intent and purposes of the R-4 Zone District prescribed in 11 DCMR § 330. In light of the growing number of requests for relief under § 410 for properties located in the R-4 District, this emergency action is necessary for the immediate preservation of the public welfare by addressing a pressing land use issue that threatens the continued existence of the R-4 Zone District. This emergency rule was adopted on February 13, 2006, and became effective on that date, except that it will not apply to BZA applications filed on or before February 13, 2006.

The Commission also gives notice of its intent to take final rulemaking action to adopt this amendment in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register* or thirty (30) days following referral to the National Capital Planning Commission, whichever occurs last. In addition, the Commission proposes, in the alternative, to repeal § 410 in its entirety. The Commission will hold a public hearing on both alternatives at the date, time, and place indicated in the Notice of Public Hearing published elsewhere in this edition of the *Register*. All comments received before the close of the hearing record will be considered.

The emergency rule will expire on July 13, 2006, which is the 120th day after the adoption of the rule, or upon the publication of a Notice of Final Rulemaking in the *Register*, whichever occurs first.

¹ The version of § 410.12 that appears in the current edition of the Zoning Regulations does not contain this reference, but the prior edition of Title 11 did. A review of all amendments made to § 410.12 between the publications dates of the two editions reflects no amendment to § 410.12. However, the Commission has been advised by the Office of the Attorney General that all of § 410.12 may have been repealed in 1970. For the purposes of this rulemaking only, the Commission will assume that § 410.12 is in effect and that it includes a reference to the R-4 Zone District.

A. The following emergency action is taken and proposed with respect to Title 11 of the District of Columbia Municipal Regulations (ZONING)

Section 410 in Chapter 4 RESIDENCE DISTRICTS. HEIGHT, AREA AND DENSITY REGULATIONS of Title 11 (DCMR) is amended as follows.

1 The heading is amended to reads as follows.

410 SPECIAL EXCEPTIONS FOR GROUPS OF RESIDENTIAL BUILDINGS IN
R-5 DISTRICTS

2. Section 410 12 is amended by striking the phrase "In the R-5-A and R-4 Districts," and inserting the phrase "In an R-5-A District," in its place

B The following alternative is also proposed

Section 410 in Chapter 4 RESIDENCE DISTRICTS. HEIGHT, AREA AND DENSITY REGULATIONS of Title 11 (DCMR) is repealed

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments, in writing, to Sharon Schellin, Acting Secretary to the Zoning Commission, Office of Zoning, 441 4th Street, N W., Suite 200-S, Washington, D.C 20001. Comments must be received not later than thirty (30) days after the publication of this notice in the *D C Register* or by the close of the record for the hearing on this matter, whichever is later. A copy of this proposal may be obtained, at cost, by writing to the above address