


GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



MEMORANDUM

Office of
Documents and
Administrative
Issuance
2007 OCT 17 11 10:49

To: Office of Documents and Administrative Issuance
From: Sharon S. Schellin 
Secretary to the Zoning Commission
Date: October 17, 2007
Re: Publication for the Office of Zoning

Please publish the following in the *D.C. Register* on October 26, 2007:

1. Z.C. Notice of Final Rulemaking & Order No. 06-25;
2. Z.C. Notice of Final Rulemaking & Order No. 06-44;
3. Z.C. Notice of Final Rulemaking & Order No. 07-08A; and
4. Z.C. Notice of Final Rulemaking & Order No. 07-09.

These rulemakings are also included on the attached diskette in MS Word format.

Attachment

ZONING COMMISSION
District of Columbia
CASE NO. 06-44
EXHIBIT NO. 10

2007 OCT 17 AM 10: 49

RULEMAKING TRANSMITTAL FORM

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

AGENCY: OFFICE OF ZONING

AGENCY REPRESENTATIVE: MS. SHARON SCHELLIN

DATE AND TIME RECEIVED

Office of Documents use only

ADDRESS: 441 4th Street, N.W., Suite 210 South

TELEPHONE: (202) 728-0340

TITLE AND DESCRIPTION OF RULES: Case No. 06-44 – (Text Amendment to Permit Temporary Accessory Bus Parking Lot for the use of Washington Metropolitan Area Transit Authority on Square 700, Lot 46).

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed: NA

FINAL RULES ONLY: Give the D.C. REGISTER citation and date of publication of the Notice of Proposed Rulemaking for these rules: January 5, 2007, at 54 DCR 139

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 and D.C. Official Code § 2-505(c).

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: JUNE 13, 2007

SIGNED:

Alan Bayler for

PHONE: (202) 442-9777

<input checked="" type="checkbox"/> FINAL	<input type="checkbox"/> CONDITIONAL	NAME: LINDA SINGER	TITLE: ATTORNEY GENERAL
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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. Section 1 of the Zoning Act of 1938, approved June 20, 1938, 52 Stat. 797, 799; D.C. Official Code § 6-641.01 and D.C. Official Code § 2-505(c).

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

DATE OF APPROVAL OF VOTE:

6-11-07

APPROVAL Sharon Schellin

OF ATTEST:

Secretary to the Zoning

TITLE: Commission

PHONE: (202) 727-0340

Office of Documents
use only:

**THIS NOTICE
PUBLISHED AT:**

VOL:

DCR:

DATE:

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
and
Z.C. ORDER NO. 06-44
Z.C. Case No. 06-44
(Text Amendment—Temporary Accessory Parking Lot – Square 700, Lot 46)
June 11, 2007

The Zoning Commission for the District of Columbia (the “Commission”), pursuant to the authority set forth in § 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 as required by § 3 of the Act (D.C. Official Code § 6-641.03); and having referred the proposed text amendments to the National Capital Planning Commission (“NCPC”) for a 30-day period of review pursuant to § 492 of the Charter of the District of Columbia; hereby gives notice of the adoption of the following text amendment to Chapter 6 of the Zoning Regulations (Title 11 DCMR). The text amendment adds a new § 601.7(b) to permit an accessory parking lot for the use of the Washington Metropolitan Area Transit Authority (“WMATA”) as a temporary use on Lot 46 in Square 700.

A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on January 5, 2007, at 54 *DCR* 139. The Commission held a public hearing on April 23, 2007, at which it took proposed action to adopt the amendment. The Commission took final action to adopt the amendment at a public meeting on June 11, 2007. No change was made to the text as proposed.

Background

This case was initiated by a letter filed by Holland & Knight, on behalf of Monument Realty (“Monument”), on October 27, 2006, proposing an amendment to § 1600 of the Zoning Regulations in order to allow WMATA to relocate a surface parking lot from Square 701 to “another property within the area zoned CG/CR.” An accessory surface parking lot for employees associated with the WMATA Bus Garage, located at M and Half Streets, S.E., was located in Square 701, close to the Navy Yard Metrorail Station, also located in Square 701. The Navy Yard Metrorail Station is the closest Metrorail Station to the Washington Nationals’ new baseball stadium and is at the center of an area undergoing rapid redevelopment, from a low-density commercial/industrial district to a high-density office, residential, retail, and entertainment district.

In order to accommodate the number of expected visitors to this rapidly developing section of the city, the Navy Yard Metrorail Station will undergo a major upgrade to increase the station's capacity. WMATA has contracted with Monument to complete the scheduled upgrade. Monument and its affiliates will also develop a mixed-use project in Square 701, proximate to the Metrorail station. To complete the station upgrade and mixed-use project, WMATA's employee parking lot must be relocated. Because the upgrade of the station must be completed prior to the planned opening of the new stadium in April 2008, work in Square 701 must begin immediately, and, similarly, the employee parking lot must be relocated immediately.

On November 11, 2006, Holland & Knight sent the Commission a second letter on behalf of Monument. In this letter, Holland & Knight explained that it had learned that the Commission had recently adopted an amendment to § 601 of the Zoning Regulations to address a situation very similar to Monument's. In this earlier text amendment, Z.C. Case No. 06-20, the Commission permitted WMATA a temporary surface parking lot use in Square 661. Monument decided to "piggyback" its request on this text amendment. Therefore, in its November 11, 2006 letter, in lieu of its original request that § 1600 be amended, Monument requested that § 601 be again amended to address its situation, *i.e.*, to permit a temporary surface parking lot for WMATA on Lot 46 in Square 700.

Set Down Proceedings

The Office of Planning ("OP"), in its Setdown Report to the Commission dated November 6, 2006, recommended that the Commission adopt, on an emergency basis, a text amendment to allow the relocation of the existing accessory parking lot for WMATA from Square 701 to Square 700, for a temporary period not to exceed three (3) years.

Public Meeting and Emergency Action

At its November 13, 2006 public meeting, the Commission voted to approve the proposed text amendment, as a proposed rulemaking, on an emergency basis. The emergency rulemaking took effect immediately upon its adoption on November 13, 2006 and expired on March 16, 2007, 120 days after its adoption.

A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on January 5, 2007, for a 30-day notice and comment period.

Public Hearing and Proposed Action

On April 23, 2007, the Commission held a public hearing on the case. At the public hearing, OP and representatives of Monument Realty testified in support of the proposed text amendment. The Commission did not receive a written report or recommendation from Advisory Neighborhood Commission ("ANC") 6D, the ANC within which Squares 701 and 700 are

located. There were no other government agencies, persons, or parties speaking in favor of or in opposition to the proposed text amendment. No other comments were received.

The Office of the Attorney General has determined that this rulemaking meets its standards for legal sufficiency.

The Commission took proposed action to approve the text amendment at its April 23, 2007 public hearing on the case.

Relationship to the Comprehensive Plan

The Commission finds that the text amendment will not be inconsistent with the Comprehensive Plan or the Comprehensive Plan Generalized Land Use Map.

Referral to the National Capital Planning Commission

On April 25, 2007, the proposed rulemaking was referred to NCPC for review and comment, in accordance with § 492 of the District of Columbia Charter. No report was received from NCPC.

Final Action

At its June 11, 2007 public meeting, the Commission took final action to adopt the proposed text amendment. No substantive changes were made to the proposed text.

Based on the above, the Commission finds that the proposed amendments to the Zoning Regulations are in the best interests of the District of Columbia and consistent with the purpose of the Zoning Regulations and the Zoning Act of 1938.

In consideration of the reasons set forth herein, the Commission hereby APPROVES the following amendment to Chapter 6 of the Zoning Regulations, Title 11 DCMR:

Title 11 DCMR (Zoning), Chapter 6, Mixed Use (Commercial Residential) Districts, § 601.7 (Uses as a Matter of Right), is amended to read as follows (new language shown in **bold and underlined** text and deleted wording is shown in ~~strike through~~ lettering):

601.7 Notwithstanding § 602.1, and not subject to any otherwise applicable proximity requirement, a surface parking lot accessory to the Washington Metropolitan Area Transit Authority garage facility located on Square 700, Lot 857, is permitted as a temporary use ~~for a period of five (5) years maximum on:~~

- (a) Square 661, Lot 805, for a period of five (5) years maximum, beginning from the date of issuance of a certificate of occupancy for such use, with the 5-year period renewable by the Zoning Commission; and**

- (b) Square 700, Lot 46, for a period of three (3) years maximum, beginning from the date of issuance of a certificate of occupancy for such use, with the 3-year period renewable by the Zoning Commission.

On April 23, 2007, the Zoning Commission **APPROVED** the application by a vote of 3-0-2 (Anthony J. Hood, John G. Parsons, and Michael Turnbull to approve; Carol J. Mitten and Gregory N. Jeffries not present, not voting).

The Order was **ADOPTED** by the Zoning Commission at its public meeting on June 11, 2007 by a vote of 4-0-1 (Anthony J. Hood, Michael Turnbull, John G. Parsons, and Gregory N. Jeffries to approve; Carol J. Mitten, not having participated, not voting).

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 OCT 26 2007.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
and
Z.C. ORDER NO. 06-44
Z.C. Case No. 06-44
(Text Amendment—Temporary Accessory Parking Lot – Square 700, Lot 46)
June 11, 2007**

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