

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning

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MEMORANDUM

Office of
Documents and
Administrative
Issuances

2007 OCT 17 11 10 49

To: Office of Documents and Administrative Issuance
From: Sharon S. Schellin *SS*
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. 07-08

EXHIBIT NO. 26

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ZONING COMMISSION
District of Columbia
CASE NO. 07-08
EXHIBIT NO. 26

2007 OCT 17 AM 10:50

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: 727-0340

TITLE AND DESCRIPTION OF RULES: Zoning Commission Case No. 07-08A (Corrected Order: Text Amendments – Temporary Ballpark accessory surface parking lots)

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed: This rulemaking amends Title 11 (Zoning) Sections §§ 199, 350, 601, 602, 741, 901, 902, and adds a new section 2110.

FINAL RULES ONLY: Give the D.C. REGISTER citation and date of publication of the Notice of Proposed Rulemaking for these rules: 54 DCR 5633 DATE: JUNE 8, 2007

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: OCTOBER 16, 2007

SIGNED: *Alan Bergstein*

PHONE: (202) 442-9777

☒ FINAL ☐ ☐ CONDITIONAL **NAME:** LINDA SINGER **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. Section 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799 D.C. Official Code § 6-641.01).

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

**DATE OF
APPROVAL
OF VOTE:**

7-30-07

**APPROVAL
OF ATTEST:**

Sharon J. Schellin
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
CORRECTED¹ NOTICE OF FINAL RULEMAKING
and
Z.C. ORDER NO. 07-08A
Z.C. Case No. 07-08
(Text Amendment - Temporary Ballpark Accessory Surface Parking Lots)
July 30, 2007

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, as amended; D.C. Official Code § 6-641.01); having held a public hearing referred the proposed amendments to the National Capital Planning Commission for a 30-day period of review pursuant to section 492 of the District Charter; hereby gives notice of the adoption of the following amendments to Chapters 1, 3, 6, 7, 9 and 21 of the Zoning Regulations (Title 11 DCMR). This text amendment would permit and regulate temporary surface parking spaces on specified lots near the future Washington Nationals ballpark (Ballpark).

A Notice of Proposed Rulemaking was published in the *D.C. Register* ("DCR") on June 8, 2007 at 54 DCR 5633. Several comments were received and minor changes were made to the text, as will be explained below. The Commission took final action to adopt the amendments at a public meeting on July 30, 2007. This final rulemaking is effective upon publication in the *D.C. Register*.

Set Down Proceedings

The Office of Planning ("OP") initiated this rulemaking by filing a report with the Zoning Commission. The OP report requested text amendments to Chapters 3, 7, 9, and 21 of the Zoning Regulations to permit and regulate temporary (5 year maximum) surface parking spaces on specified squares to meet short term parking needs associated with the new Ballpark. OP further recommended that the Commission take emergency action to adopt the amendment, so that it could immediately take effect.

At its April 9, 2007 public meeting, the Commission declined to take emergency action, but agreed to set down the case for a public hearing with a shortened notice period of 30 days. The Commission further indicated that it would consider taking emergency action to adopt the amendment after the hearing is concluded.

¹ This is a corrected version of the Order previously published in the September 14, 2007, edition of the *D.C. Register*. This corrected version corrects the following typographical errors: 1.) § 2110.3(a) – second line, change 13.12.3(c) to 1312.3(c); and 2.) § 2110.5(e) – first line, change 2110.3 to 2110.5.

Public Hearing and Proposed Action

The Commission held a public hearing on this case on May 21, 2007. At the public hearing, OP testified that the proposed text amendments would:

- Apply only to Squares 660, 665, 700, 701, 707, 708, 708E, 708S, 744S, 767, 768, 769, and 882.
- Allow matter of right surface parking lots on these squares until April 1, 2013 at the latest.
- Establish that, when not in use for Ballpark event parking purposes, the parking lots could be used for other parking purposes. OP further recommended that the time frame for which the parking spaces would be required to be available for patrons of events at the ballpark be 1.5 hours before an event and 3 hours after the event. The advertised text provided for a 3 hour period in both instances.
- Establish a cumulative matter of right maximum number of 3,775 surface parking spaces to be provided on these lots, derived from the D.C. Major League Baseball Park Transportation Management Plan prepared for the DC Sport and Entertainment Commission (DCSEC) as part of the Zoning Commission review of the ballpark design (ZC Case 06-22).
- Allow special exception approval by the Board of Zoning Adjustment (BZA) for additional parking spaces in excess of this maximum, in accordance with § 3104, subject to the applicant providing a traffic study assessing potential impacts.
- Establish provisions similar to those of §§ 2115 (size of parking spaces) and 2117 (access, maintenance, and operation) to regulate normal parking lot design and function related issues.

In a written report and in testimony at the public hearing, the District Department of Transportation (“DDOT”) indicated support for the proposal on the basis of it being for temporary parking only. DDOT also described ongoing discussions regarding broader traffic and parking management for the Ballpark.

Advisory Neighborhood Commission (“ANC”) 6D provided written and verbal testimony in opposition to the proposal, with the principal concerns being the potential for traffic through existing residential neighborhoods to access the parking spaces, and especially along P Street S.W., 4th Street S.W., and I Street S.W. The ANC also recommended implementation of a Traffic Management Plan, requiring that all parking lots meet stormwater management criteria, and placing a neighborhood recreation surcharge on the parking fees.

One resident and one representative of a property owner testified in opposition to the proposal.

Immediately following the public hearing on May 21, 2007, the Commission took emergency and proposed action to adopt the text amendment as advertised, with an amendment to require an approved traffic management plan ("TMP") for each surface parking lot approved by DDOT that would not direct traffic down P Street S.W., 4th Street S.W., or I Street S.W. The Commission indicated that DDOT could require that the TMP also include the impact of other proposed lots.

The Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on June 8, 2007 at 54 DCR 5633 for a 30-day notice and comment period. Unfortunately, the Notice of Proposed Rulemaking did not accurately capture the intent of the Commission, in that it (1) stated that the TMP must be for the Ballpark as a whole; and (2) provided that each lot is reserved exclusively for ballpark use is 3 hours before each event. After the transcript of the hearing became available, it was clear that the TMP was to be for each surface lot, unless DDOT required an aggregate TMP if more than one lot's application was being processed by the Department of Consumer and Regulatory Affairs, and that the lots were to be reserved for exclusive use by attendees of a baseball game or public event (as described in § 1612.3 of the Zoning Regulations) one and a half (1.5) hours before each game or event. The text of the final rule was modified to reflect the Commission's intent when it took proposed action.

The Commission received comments from Councilmember Tommy Wells, Curt Harris, and Betsy Allman, all expressing concern that allowing construction of temporary parking lots on land currently known as U.S. Reservation 17, parcels B, C, and D (the "Canal Blocks Park Area" which is located within Squares 767, 768, and 769), would delay completion of the planned Canal Blocks Park.

The Commission also received comments from the Coalition for Smarter Growth, suggesting that the Commission require a renewal process for the temporary ballpark Certificates of Occupancy, require the lots comply with stormwater management best practices, require parking management to reduce the impact of the lots on the surrounding neighborhood, impose a parking free on all off-street parking, and require commercial parcels in the vicinity to share parking provided on-site with the Ballpark.

The proposed rulemaking also was referred to the National Capital Planning Commission ("NCPC") under the terms of § 492 of the District of Columbia Charter. NCPC by report dated July 12, 2007, commented that the proposed text amendment would not adversely affect the identified federal interests if the Zoning Commission made the following changes to the text amendment:

- Section 1603.3 of the Zoning Regulations is amended to include temporary surface parking lots as to maintain the 75 foot setback along the Anacostia Waterfront.

- Temporary surface lots are not permitted on the Canal Blocks Park Area.
- The final order for the text amendment clarifies that the existence of the parking lots beyond the April 1, 2013 time limit is not subject to Board of Zoning Adjustment Special Exception review.
- The Zoning Regulations require that the Board of Zoning Adjustment assess any request for exception to the 3,775 parking space cap for specific impacts to the Anacostia River and the Washington Nationals Baseball Stadium by adding language to Section 2110.2 of the proposed amendment.

Through a supplemental report dated July 18, 2007, OP also recommended that the Commission exclude the Canal Blocks Park Area from eligibility to become a temporary ballpark parking lot.

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

Final Action

At its properly noticed July 30, 2007 public meeting, the Commission took final action to adopt the proposed text amendments, with modified text that adopted the recommendation of Councilmember Wells, OP, and NCPC to exclude the Canal Blocks Park Area from eligibility to become a temporary ballpark parking lot.

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, consistent with the purpose of the Zoning Regulations and the Zoning Act.

In consideration of the reasons set forth herein, the Zoning Commission hereby **APPROVES** the following amendments to Chapters 1, 3, 7, 9, and 21 of the Zoning Regulations, Title 11 DCMR:

Title 11 (DCMR) is amended as follows:

A. Chapter 1 is amended by adding the following new definition:

199.1 Ballpark – the building and use authorized by Zoning Commission Order No. 06-22.

- B. Chapter 3, R-2, R-3, R-4, AND R-5 RESIDENTIAL DISTRICT USE REGULATIONS, § 350 is amended by adding the following new provision:

350.4 (i) Temporary surface parking lot accessory to the Ballpark shall be permitted on Square 882 in accordance with § 2110. In the event that the cumulative parking limit established in § 2110.1 (a) is met, additional temporary surface parking spaces accessory to the Ballpark on Square 882 shall be permitted as a special exception use if approved by the Board of Zoning Adjustment pursuant to § 2110.2.

- C. Chapter 6, MIXED USE (CR) DISTRICTS, § 601 is amended by adding the following new provision:

601.1 (dd) Notwithstanding § 602.1, temporary surface parking lot accessory to the Ballpark shall be permitted on Squares 660, 665, 700, 701, 882; and on Square 767, Lots 44 - 47; Square 768, Lots 19- 22; and Square 769, Lot 19 and those portions of Lots 18 and 20 within the CR District; in accordance with § 2110. In the event that the cumulative parking limit established in § 2110.1 (a) is met, additional temporary surface parking spaces accessory to the Ballpark on Squares 660, 665, 700, 701, 882; and on Square 767, Lots 44 - 47; Square 768, Lots 19- 22; and Square 769, Lot 19 and those portions of Lots 18 and 20 within the CR District, shall be permitted as a special exception if approved by the Board of Zoning Adjustment pursuant to § 2110.2.

- D. Chapter 6, MIXED USE (CR) DISTRICTS, § 602 is amended by adding the following new text (additions to the existing text are **bold** and underlined):

602.1 (j) Parking lot, **except a temporary surface parking lot permitted pursuant to § 601.1(dd);**

- E. Chapter 7, COMMERCIAL (C) DISTRICTS, § 741 is amended by adding the following new provision:

741.5 (d) Temporary surface parking lot accessory to the Ballpark shall be permitted on Square 769, Lot 21 and those portions of Lots 18 and 20 within the C-3-C District, in accordance with § 2110.1 (a). In the event that the cumulative parking limit established in § 2110.1 (b) is met, additional temporary surface parking spaces accessory to the Ballpark on Square 769, Lot 21 and those portions of Lots 18 and 20 within the C-3-C District, shall be permitted as a special exception if approved by the Board of Zoning Adjustment pursuant to § 2110.2.

- F. Chapter 9, WATERFRONT (W) DISTRICTS, § 901 is amended by adding the following new provision:

901.1 (dd) Notwithstanding § 352.3, temporary surface parking lot accessory to the Ballpark shall be permitted on Squares 707, 708, 708E, 708S, or 744S, in accordance with § 2110. In the event that the cumulative parking limit established in § 2110.1 (a) is met, additional temporary surface parking spaces accessory to the Ballpark on Squares 707, 708, 708E, 708S, or 744S shall be permitted as a special exception in a W-2 District if approved by the Board of Zoning Adjustment pursuant to § 2110.2.

- G. Chapter 9, WATERFRONT (W) DISTRICTS, § 902 is amended by adding the following new text (additions to the existing text are **bold** and underlined):

902.1 (l) Parking Lot:

(i) **except a temporary surface parking lot permitted pursuant to § 901.1 (dd); or**

(ii) other than as permitted by special exception in the W-0 District in §926;

- H. Chapter 21, OFF STREET PARKING REQUIREMENTS, is amended by adding the following new section:

2110 Temporary Surface Parking Lots and Spaces for the Ballpark

2110.1 Permitted Use - Notwithstanding §§ 602.1 and 902.1 and not subject to any otherwise applicable proximity requirement, a temporary surface parking lot accessory to the Ballpark shall be permitted as a temporary use on Squares 660, 665, 700, 701, 707, 708, 708E, 708S, 744S, and 882; and Square 767, Lots 44 – 47; Square 768, Lots 19 – 22; and Square 769, Lots 18 - 21 (“the subject squares”) in accordance with §§ 2110.3 through 2110.5 and the following provisions:

- (a) The cumulative total of all temporary surface parking spaces for which a valid Building Permit has been issued pursuant to this section shall not exceed 3,775 parking spaces.
- (b) Any certificate of occupancy issued pursuant to this subsection shall expire no later than April 1, 2013.

- (c) The application for a building permit for matter of right construction shall include a detailed accounting demonstrating that the circumstances described in § 2110.2 do not apply.
- (d) No certificates of occupancy for this use shall be issued until the District Department of Transportation has approved a traffic routing plan for the lot, which shall include the impact of other proposed lots if required by DDOT.
- (e) The traffic routing plan described in § 2110.1(d) shall not direct traffic through I St., SW, P St., SW, or 4th St., SW.

2110.2 Special Exception - If and when valid building permits issued pursuant to § 2110.1 authorize an aggregate of 3,775 or more parking spaces, the construction and use of additional temporary spaces on any of the subject squares shall require approval of the Board of Zoning Adjustment pursuant to § 3104, and in accordance with §§ 2110.3 through 2110.5 and the following provisions:

- (a) Any certificate of occupancy issued pursuant to this subsection shall expire no later than April 1, 2013; and
- (b) The BZA application shall include a detailed accounting of the number and locations of temporary parking spaces provided pursuant to § 2110.1; and shall also include a traffic study assessing the impacts of the proposed additional parking spaces on local traffic patterns for referral to and comment by the District Department of Transportation.

2110.3 Any parking lot authorized shall be available for exclusive use of attendees at any baseball game or other public event described in §1612.3 for a time period extending from one and a half (1.5) hours prior to the scheduled start time of the event, to 3 hours after the event. At all other times, the parking lot may be used for:

- (a) Parking on a general basis for “non-commercial motor vehicles” as that term is defined by 18 DCMR § 1312.3 (c), except vehicles equipped to serve as temporary or permanent living quarters; or
- (b) A seasonal or occasional market for produce, arts or crafts with non-permanent structures.

- 2110.4 No use, other than permitted in this section shall be conducted from or upon the premises, and no structure other than an attendant's shelter shall be erected or used upon the premises unless the use or structure is otherwise permitted in the District in which the parking lot is located.
- 2110.5 A temporary surface parking lot provided in accordance with this section shall comply with the following standards:
- (a) A full size automobile parking space shall be a minimum of nine feet (9 ft.) in width and nineteen feet (19 ft.) in length, exclusive of access drives or aisles. A compact car parking space shall be a minimum of eight feet (8 ft.) in width and sixteen feet (16 ft.) in length exclusive of access drives or aisles, and shall be visibly marked as a "compact car" or "small car" parking space.
 - (b) Parking shall be designed so that no vehicle or any part thereof shall project over any lot line or building line. All parking areas and spaces shall be designed and operated so that sufficient access and maneuvering space is available to permit the parking and removal of any vehicle without moving any other vehicle onto public space.
 - (c) When parking spaces are so arranged that an aisle is required for accessibility or maneuvering space between rows of 2 or more parking spaces, or between a row of 2 or more parking spaces and the perimeter of the area devoted to parking spaces, the aisle shall have a clear width of not less than twenty feet (20 ft.) or ninety degree (90°) angle parking, and not less than seventeen feet (17 ft.) for angle parking that is sixty degrees (60°) or less as measured from the center line of the aisle.
 - (d) Aisle widths serving compact car spaces exclusively shall have a clear width of not less than twenty feet (20 ft.) for ninety degree (90°) angle parking and not less than sixteen feet (16 ft.) for angle parking that is sixty degrees (60°) or less as measured from the center line of the aisle.
 - (e) Compliance with the requirements of §§ 2110.5 (c) and (d) is not required if the parking is managed during a specified twelve (12) hour peak period to be determined by the District Department of Transportation by employed attendants who park the vehicles using the parking facility; in which case a permanent sign shall be posted at each entrance in full view of the public that states: "Attendant assisted parking is required by the District of Columbia Zoning Regulations." The sign shall also state the hours during which attendant parking is

required. The sign shall have a white background, with black lettering that is no less than two inches (2 in.) in height.

- (f) A driveway that provides access to required parking spaces shall:
 - (i) Have a maximum grade of not more than twelve percent (12%) with a vertical transition at the property line;
 - (ii) Be not less than twenty-five feet (25 ft.) from a street intersection as measured from the intersection of the curb line extended;
 - (iii) Be not less than twelve feet (12 ft.) in width if designed for one-way circulation or fourteen feet (14 ft.) if designed for two-way circulation; and
 - (iv) Be not more than twenty-five feet (25 ft.) in width.
- (g) All parking spaces, including access aisles, driveways, and ramp areas shall be surfaced and maintained with an all-weather surface. In addition to traditional impervious surfaces, allowable all weather surfaces include porous (or pervious) concrete, porous asphalt, and/or mechanically-reinforced grass, excluding grass or gravel.
- (h) The parking lot shall be kept free of refuse and debris and shall be landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance. Landscaping with trees and shrubs shall cover a minimum of five percent (5%) of the total area of the parking lot, or an area as determined by the Board of Zoning Adjustment for a parking lot requiring Board approval.
- (i) Any lighting used to illuminate a parking lot or its accessory building shall be so arranged that all direct rays of lighting are confined to the surface of the paved area devoted to parking.

Vote of the Zoning Commission taken at its public meeting on May 21, 2007 to **APPROVE** the proposed rulemaking by a vote of **3-0-2** (Carol J. Mitten, Anthony J. Hood, and Michael G. Turnbull to approve; John G. Parsons Gregory N. Jeffries not present, not voting).

This Order was **ADOPTED** by the Zoning Commission at its public meeting on July 30, 2007 by a vote of **3-0-2** (Carol J. Mitten, Anthony J. Hood, and Michael G. Turnbull to adopt; John G. Parsons and Gregory N. Jeffries having not participated, not voting).

Z.C. NOTICE OF FINAL RULEMAKING & ORDER NO. 07-08
Z.C. CASE NO. 07-08A
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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
CORRECTED NOTICE OF FINAL RULEMAKING
and
Z.C. ORDER NO. 07-08A
Z.C. Case No. 07-08
(Text Amendment - Temporary Ballpark Accessory Surface Parking Lots)
July 30, 2007

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