

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PROPOSED RULEMAKING**

Z.C. Case No. 08-060

(Text Amendment – 11 DCMR)

**Minor Modification to Z.C. Order 08-06A to Permit Large Format Retail as a Special
Exception Use in the Production, Distribution, and Repair Zones**

The Zoning Commission for the District of Columbia (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 (2012 Rep1.)), hereby gives notice of its intent to amend Subtitle U (Use Permissions) of Title 11 (Zoning Regulations of 2016) of the District of Columbia Municipal Regulations (DCMR) to make a minor modification to an amendment made by Z.C. Order No. 08-06A (Order). The Order, which took the form of a Notice of Final Rulemaking, adopted comprehensive amendments to the Zoning Regulations that became effective on September 6, 2016

The proposed minor modification would permit large format retail uses by special exception in Production, Distribution, and Repair (PDR) zones as the Commission originally intended. As part of the deliberations that led to the adoption of the Zoning Regulations of 2016, the Zoning Commission, on October 6, 2014, voted to permit large format retail uses by special exception in certain Mixed Use (MU) zones and in all PDR zones. Although the Commission’s intent was noted in the Order at page 25. The Order only included the special exception language for the identified MU zones. Therefore, in order to effectuate the Commission’s intent, the text of 11-U DCMR § 551.1(j) is proposed to be added to 11-U DCMR § 802.1.

Final rulemaking action shall be taken not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The following amendments to Title 11 DCMR are proposed (additions are shown in **bold underlined** text and deletions are show in ~~strike through~~ text):

Subsection 802.1 of § 802, SPECIAL EXCEPTION USES (PDR) Chapter 8, USE PERMISSIONS PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES, of Subtitle U, USE PERMISSIONS, is amended by adding a new paragraph (j) as follows:

802 SPECIAL EXCEPTION USES (PDR)

802.1 The following uses shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the provisions of this section:

...¹

¹ The use of this and other ellipses indicate that other provisions exist in the subsection being amended and that the omission of the provisions does not signify an intent to repeal

(h) Utilities (basic) uses not meeting the conditions of Subtitle U § 801.1(z); however, if the use is an electronic equipment facility (EEF), the Board of Zoning Adjustment shall consider:

(1) How the facility, as a consequence of its design, operation, low employee presence, or proximity to other EEFs, will not inhibit future revitalization of the neighborhood, reduce the potential for vibrant streetscapes, deplete street life, or inhibit pedestrian movement;

...

(4) The economic benefits the proposed facility will have on adjacent properties, including the potential for increased business activity within the neighborhood, if that activity will foster economic development; and

(5) The design appearance, landscaping, parking and other such requirements it deems necessary to protect adjacent property and to achieve an active, safe, and vibrant street life; ~~and~~

(i) Waste-related service uses not permitted under Subtitle U § 801.1(aa), but not including hazardous waste, subject to the following conditions:

(1) Regardless of use, the facility shall comply with the following:

...

(11) The applicant shall provide credible evidence to the Board of Zoning Adjustment to demonstrate the ability of the facility and its ancillary elements to comply with all applicable regulations. The evidence shall include, but not be limited to, the following:

(A) An indication of the site and description of land uses within one-quarter (1/4) of a mile of the site

...

(F) A certified statement by an architect or engineer licensed in the District of Columbia that the facility as sited and designed to the best of his or her professional knowledge and belief is capable of complying with this subsection and all other applicable regulations of the District of Columbia government, including, without limitation, regulations adopted pursuant to the Solid Waste Facility Permit Act of 1995, effective February 27, 1996 (D.C. Law 11-94, as amended; D.C. Official Code §§ 8-1051 to 8-1063 (2012 Repl.))-; **and**

(j) Retail, large format, subject to the following conditions:

- (1) The development standards and design guidelines contained within this section apply to all new large format retail establishments with single tenant space of fifty thousand (50,000) gross square feet or greater;**
- (2) The use shall be located so that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic, parking, loading, deliveries, lighting, trash compacting and collection, hours of operation, or otherwise objectionable conditions;**
- (3) Sufficient automobile parking, but not less than that required in Subtitle C, Chapter 7, shall be provided to accommodate the employees and customers;**
- (4) An application under this section shall include the following information:**
 - (A) A general site and development plan, indicating the proposed use, location, dimensions, number of stories, and height of building;**
 - (B) A study of site characteristics and conditions;**
 - (C) A description of existing topography, soil conditions, vegetation and drainage consisting of written material, plats, maps and photographs;**
 - (D) Proposed topography including street grades and other grading contours;**
 - (E) Identification of mature trees to remain and percent of site to be covered by impervious surface;**
 - (F) Proposed drainage and sewer system and water distribution;**
 - (G) Proposed treatment of existing natural features, such as steep slopes, ravines, natural watercourses;**
 - (H) Proposed method of solid waste collection;**

(I) Estimated water consumption (gallons per year);

(J) A transportation study, containing the following:

(i) Proposed circulation plan, including the location of vehicular and pedestrian access ways, other public space and the location and number of all off-street parking and loading spaces, loading berths and service delivery spaces;

(ii) Estimated number and type of trips assumed to be generated by project, and assumed temporal and directional distribution;

(iii) Traffic management requirements (lights, stop signs, one-way streets, etc.);

(iv) Relationship of the proposed project to the mass transit system (nearest bus stops and routes, nearest Metrorail stations, etc.);

(v) Vehicular trip generation, trip assignment and before-and-after capacity analyses and level of service at critical intersections; and

(vi) Any other information needed to fully understand the final building proposed for the site;

(5) An applicant requesting approval under this section must demonstrate that the proposed use, building, or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will:

(A) Be in context with the surrounding street patterns;

(B) Minimize unarticulated blank walls adjacent to public spaces through facade articulation, materials, display windows, entries, and other architectural efforts; and

(C) Not result in light spillage off the site;

(6) Where additional stores or individual uses are located within a large format retail use, each such store shall have at least one (1) exterior customer entrance;

(7) The following list should be considered as guidelines for the design of large format retail buildings:

(A) Building design shall incorporate architectural features and patterns to provide visual interest;

(B) Exterior walls shall feature projections and recesses;

(C) Building roofs shall incorporate pitched rooflines and detailed roofing materials;

(D) Building materials shall include stone, wood, brick, glass, and metal in keeping with the surrounding architectural context;

(E) Entryways shall be well-marked and engaging and provide connection via wide sidewalks to primary streets and parking;

(F) Building design shall incorporate sustainable measures to include solar energy, geothermal heating and cooling, and use of permeable paving for surface parking areas; and

(G) Landscaping shall be provided in the rear and side yards to screen and limit visibility of storage areas;

(8) This section shall not apply to the following:

(A) Large format retail that would occupy a planned unit development approved as of September 5, 2016; or

(B) Large format retail that would occupy a project with a completed review under the large tract review regulations (Title 10-B DCMR, Chapter 23) as of September 6, 2016; except that a modification to a completed large tract review that would result in a project with fifty thousand square feet (50,000 sq. ft.) or more of retail use shall also require approval under this section prior to certificate of occupancy for a use meeting the definition of large format retail;

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than fourteen (14) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, through the Interactive Zoning Information System (IZIS)

at <https://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Ms. Schellin may be contacted by telephone at (202) 727-6311 or by email at Sharon.Schellin@dc.gov. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.