

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



MEMORANDUM

To: Office of Documents and Administrative Issuance (via-email)
From: Sharon S. Schellin ^{S3}
Secretary to the Zoning Commission
Date: June 22, 2009
Re: Publication for the Office of Zoning

Please publish the following in the *D.C. Register* on June 26, 2009:

1. Z.C. Notice of Emergency & Proposed Rulemaking (Case No. 09-07).

Attachment

ZONING COMMISSION
District of Columbia
CASE NO. 09-07
EXHIBIT NO. 26

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: Z.C. Case No. 09-07 Map Amendment – 2269 Cathedral Avenue, N.W.

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed: Title 11 (Zoning) Zoning Map

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: JUNE 22, 2009

SIGNED:

Alan Bergstein

PHONE: (202) 442-9777

X FINAL ☐ CONDITIONAL

NAME: ALAN BERGSTEIN

TITLE: SECTION CHIEF,
LAND USE AND PUBLIC
WORKS

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:

6-18-09

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
NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

Z.C. Case No. 09-07

Map Amendment – 2269 Cathedral Avenue, N.W.

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; D.C. Official Code §§ 6-641.01) and the authority set forth in § 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c)), hereby gives notice of the adoption, on an emergency basis, of the an amendment to the Zoning Map as incorporated in the Zoning Regulations (Title 11, DCMR).

Through its adoption of the amendment, the Commission immediately included the unzoned property at 2269 Cathedral Avenue, N.W. (Square 2210, Lot 803) in the R-4 District.

This action is being taken on an emergency basis because the subject property, though privately owned, is not now, and has not been since the inception of zoning in the District, included in any zone district. A one-family dwelling was constructed on the property in 1910 and the property has been in use as a one-family dwelling since that time. Subsection 106.7 of the Zoning Regulations provides that 'no building permit shall be issued ... nor shall any property in private ownership be used for any purpose until after the Zoning Commission has designated zoning for the property'.

The absence of zoning effectively prevents any enlargement of this dwelling, although such expansion would be permitted as of right, by special exception, or through variance relief on all other private properties. Having been made aware of this circumstance by the current property owners, the Commission believes it necessary to immediately zone the property. In this case, the R-4 Zone District would permit the enlargement of the dwelling envisioned by the petitioners, but subject to a special exception review being concurrently undertaken by the Commission.

The Commission also gives notice of its intent to take final rulemaking action to amend the Zoning Map as incorporated in the Zoning Regulations (Title 11, DCMR) to designate the subject property in the R-4 District 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 of this amendment to the National Capital Planning Commission, whichever occurs last.

The emergency rulemaking action will expire on October 16, 2009, which is the 120th day after the adoption of the rulemaking action, or upon publication of a Notice of Final Rulemaking in the *Register*, whichever occurs first.

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be field with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, 441 4th Street, N.W., Suite 200/210S, Washington, D.C. 20001. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.

MISSION
Dis. w. Columbia
CASE NO. 09-07
EXHIBIT 26