

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



Z.C. CASE NO.: 15-17

As Secretary to the Commission, I hereby certify that on September 4, 2015, copies of this Z C. Notice of Public Hearing were mailed first class, postage prepaid or sent by inter-office government mail to the following.

1	<i>D C Register</i>	6	DDOT (Jamie Henson)
2	All ANCs	7	Charles Thomas, Esq. General Counsel DCRA 1100 4 th Street, S W Washington, D C 20024
3	Gottlieb Simon ANC 1350 Pennsylvania Avenue, N W Washington, D.C 20004	8	Office of the Attorney General (Alan Bergstein)
4	All Councilmembers	9	MLK Library (30 Copies)
5	Office of Planning (Jennifer Steingasser)		

ATTESTED BY:

A handwritten signature in dark ink, appearing to read "S. S. Schellin", is written over a horizontal line.

Sharon S. Schellin
Secretary to the Zoning Commission
Office of Zoning

ZONING COMMISSION
District of Columbia
CASE NO. 15-17
EXHIBIT NO. 3

ANC 1A
Suite 200
3400 11th Street, NW
Washington, DC 20010

ANC 1B
2000 14th Street NW
Suite 100B
Washington, DC 20009

ANC 1C
P.O. Box 21009
Washington, DC 20009

ANC 1D
3200 19th Street NW
Washington, DC 20010

ANC 2A
2020 Pennsylvania Avenue, NW #293
Washington, DC 20006

ANC 2B
9 DuPont Circle, NW
Washington, DC 20036

ANC 2C
c/o John Tinpe, Chair
777 7th Street, NW #506
Washington, DC, 20001

ANC 2D
2122 California St NW
Washington, DC 20008

ANC 2E
3265 S Street, NW
Washington, DC 20007

ANC 2F
5 Thomas Circle, NW
Washington, DC 20005

ANC 3B
P.O. Box 32312
Washington, DC 20007

ANC 3C
P O. Box 4966
Washington, DC 20008

ANC 3D
P O Box 40846
Washington, DC 20016

ANC 3E
c/o Lisner-Louise-Dickson-Hurt Home
Suite 219
5425 Western Avenue, N W.
Washington, DC 20015

ANC 3F
4401-A Connecticut Ave., NW - Box 244
Washington, DC 20008

ANC 3G
P.O. Box 6252
Washington, DC 20015

ANC 4A
7820 Eastern Avenue, NW
Washington, DC 20012

ANC 4B
6856 Eastern Ave., NW, #314
Washington, DC 20012

ANC 4C
P.O. Box 60847
Washington, DC 20039-0847

ANC 4D
143 Kennedy Street, NW
Washington, DC 20011

ANC 5A
5171 South Dakota Avenue NE
Washington, DC 20017

ANC 5B
1920 Irving Street, N.E.
Washington, D.C. 20018

ANC 5C
P.O. Box 80127
Washington, DC 20018

ANC 5D
c/o Kathy Henderson, Chair
1807 L Street, NE
Washington, DC 20002

ANC 5E
c/o Teri Janine Quinn, Chair
1708 2nd Street, NW
Washington, DC 20001

ANC 6A
P O Box 75115
Washington, DC 20013

ANC 6B
921 Pennsylvania Ave., SE
Suite 305
Washington, DC 20003

ANC 6C
P.O. Box 77876
Washington, DC 20013

ANC 6D
1101 4th Street, SW Suite W 130
Washington, DC 20024

ANC6E
PO Box 26182
Washington, DC 20001

ANC 7B
3200 S Street, SE
Washington, DC 20020

ANC 7C
4651 Nannie Helen Burroughs Avenue, NE
#2
Washington, DC 20019

ANC 7D
4058 Minnesota Avenue, NE, DOES Building,
First Floor
Washington, DC 20019

ANC 7E
5001 Hanna Place, SE
Suite B
Washington, DC 20019

ANC 7F
c/o Sheila M. Carson Carr, Chair
515 46th Street, SE
Washington, DC 20019

ANC 8A
2100-D M.L.K. Jr Avenue, SE
Washington, DC 20020

ANC 8B
1809 Savannah St , SE Suite A
Washington, DC 20020

ANC 8C
c/o Mary Cuthbert, Chair
3325 MLK Jr., Avenue, SE #12
Washington, DC 20032

ANC 8D
PO Box 54781
Washington, DC 20032

ANC 8E
1310 Southern Ave, SE (Room 047)
Washington, DC 20032

Anita Bonds, At Large
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Room 110
Washington, D.C. 20004

David Grosso, At Large
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Room 402
Washington, D.C. 20004

Phil Mendelson, Chair
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Room 504
Washington, D.C. 20004

Jack Evans – Ward 2
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Room 106
Washington, D.C. 20004

Brandon Todd – Ward 4
Council of District of Columbia
Pennsylvania Avenue, N.W.
Room 105
Washington, D.C. 20004

Charles Allen – Ward 6
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Room 406
Washington, D.C. 20004

LaRuby May – Ward 8
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Room 400
Washington, D.C. 20004

Vincent Orange, SR. At Large
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Room 107
Washington, D.C. 20004

Elissa Silverman, At Large
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Room 408
Washington, D.C. 20004

Brianne Nadeau – Ward 1
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Room 102
Washington, D.C. 20004

Mary M. Cheh – Ward 3
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Room 108
Washington, D.C. 20004

Kenyan McDuffie – Ward 5
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Room 506
Washington, D.C. 20004

Yvette M. Alexander – Ward 7
Council of the District of Columbia
Room 404
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

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

TIME AND PLACE: **Monday, November 2, 2015, @ 6:30 p.m.**
Jerrily R. Kress Memorial Hearing Room
441 4th Street, N.W., Suite 220-South
Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 15-17 (Text Amendments to 11 DCMR (Zoning) Chapters 1, 2, 5, 6, 7, and 31 – Child Development Homes)

THIS CASE IS OF INTEREST TO ALL ANCs

On July 17, 2015, the Office of Zoning received a report from the Office of Planning requesting text amendments to establish and regulate a new use to be known as an “Expanded Child Development Home” The use would be permitted as a home occupation in Residence Districts, an accessory use in Special Purpose Districts, a matter-of-right use in Mixed-Use (Commercial Residential) Districts, and as an accessory building in Commercial Districts Child Development Homes would no longer be permitted as accessory uses in Residence Districts but only as home occupations Other changes to the regulation of child development homes were also proposed, as well as an amendment that would count basement space towards floor area limitations for home occupations

At a public meeting on July 27, 2014, the Zoning Commission set down this case for a public hearing The Office of Planning’s report served as the supplemental filing described in § 3013

Title 11 DCMR (Zoning) is proposed to be amended as follows (language added to existing provisions shown in **bold** and underlined text, substantive language eliminated from existing provisions is shown in ~~struckthrough~~ text)

Chapter 1, THE ZONING REGULATIONS, § 199 DEFINITIONS, § 199.1, is amended as follows:

By inserting the following new definition in alphabetical order

Extended Child Development Home – a dwelling unit used in part for the licensed care, education, or training for more than six (6) individuals, up to a maximum of twelve (12) individuals fifteen (15) years of age or less including all individuals age four (4) and younger who reside in the dwelling unit, provided that no more than six (6) of the individuals may be under two (2) years of age. Those individuals receiving care, education, or training who are not related by blood, marriage, or adoption to the caregiver shall be present for less than twenty-four (24) hours per day This definition encompasses facilities generally known as a child care center, day-care center, pre-school, nursery school, before-and-after school programs, and similar programs and facilities

By amending the definition of “Caregiver” to add a reference to an “extended child development home,” so that the definition reads as follows:

Caregiver – an individual who is responsible for the supervision and administration of a child development home, extended child development home, or child/elderly development center

By amending the definition of “child development home” to insert the phrase “including all individuals age four (4) and younger who reside in the dwelling unit”, so that the definition reads as follows:

Child development home – a dwelling unit used in part for the licensed care, education, or training of no more than six (6) individuals fifteen (15) years of age or less including all individuals age four (4) and younger who reside in the dwelling unit. Those individuals receiving care, education, or training who are not related by blood, marriage, or adoption to the caregiver shall be present for less than twenty-four (24) hours per day. This definition encompasses facilities generally known as a child care center, day-care center, pre-school, nursery school, before-and-after school programs, and similar programs and facilities.

Chapter 2, R-1 RESIDENCE DISTRICT USE REGULATIONS, is amended as follows:

Section 202, ACCESSORY USES (R-1) is amended as follows:

By repealing § 202 4¹

By amending § 202 5 to add new paragraphs (a) through (e)² so that the subsection will read as follows

202 5 The elderly day care home shall be permitted as an accessory use in an R-1 District incidental to the uses permitted in this chapter ~~if the requirements of the child development home are met~~ **provided:**

- (a) The dwelling unit in which the use is located shall be the principal residence of the caregiver;**
- (b) There is used no more than one (1) sign or display, which shall not exceed one hundred forty-four square inches (144 sq. in.) in area;**
- (c) No stock in trade is kept nor any commodity sold upon the premises;**
- (d) No person is employed other than a member of the caregiver's immediate family residing on the premises; and**
- (e) No mechanical equipment is used except such as is permissible for purely domestic or household purposes.**

Section 203, HOME OCCUPATION (R-1), is amended as follows:

Subsection 203.4(b) is amended to include the floor area of a basement within the calculation of its the floor area limitation and to add a cross-reference to §§ 203.7(e)(2), (f), and (l). Paragraphs (d), (l), and (m) of the subsection are amended to reference child development homes and/or expanded child development homes. The amended subsection reads as follows.

203 4 A practitioner of a home occupation, and any owner of a dwelling unit in which a home occupation is practiced, shall comply with the requirements of §§ 203 5 and 203 6, and with the following conditions and requirements

¹ Subsection 202 4 presently permits a child development home as a matter-of-right accessory use. Under these amendments, the use will be permitted only as a home occupation, which requires a permit.

² Subsection 202 5 presently requires elderly care homes to meet the requirements stated in § 202 4(a) through (e). Since those paragraphs are proposed to be repealed, it is necessary to add their content to § 202 5.

- (a) A home occupation shall be clearly secondary to the use of a dwelling unit for residential purposes,
- (b) Except as provided in §§ 203.7(e)(2), (f), and (l) and § 203 8(d), no more than the larger of two hundred fifty square feet (250 sq. ft.) or twenty-five percent (25%) of the floor area of the dwelling, ~~excluding~~ including basement but excluding any accessory structure, shall be utilized in the home occupation,
- (d) Except as provided in §§ 203.7(a) and (e)(1), no more than one (1) person who is not a resident of the dwelling unit shall be engaged or employed in the home occupation,
- (e) The dwelling unit owner and the practitioner shall maintain the residential character and appearance of the dwelling unit and lot,
- (f) No interior structural alteration shall be permitted if it would make it difficult to return the premises to use that is exclusively residential,
- (g) Neither the practitioner nor any other person shall conduct or allow any operations outside a structure, nor maintain or allow any storage or other unsightly condition outside a structure,
- (h) Neither the practitioner nor any other person shall use any equipment or process that creates visual or audible electrical interference in television or radio receivers outside the subject home, or that causes fluctuations in line voltage outside the subject home,
- (i) The use shall produce no noxious odors, vibrations, glare, or fumes that are detectable to normal sensory perception outside the subject home;
- (j) The use shall not produce a level of noise that exceeds the level normally associated with the category of dwelling or the immediate neighborhood,
- (k) No more than two (2) vehicles may be used in the practice of the home occupation;
- (l) Except for child development homes and expanded child development homes, vehicular trips to the premises by visitors, customers, and delivery persons shall not exceed eight (8) trips daily on a regular and continuing basis,
- (m) Except for expanded child development homes, the practitioner shall have no more than eight (8) clients or customers on the premises in any one (1) hour period, and
- (n) If more than one (1) home occupation is practiced in a dwelling unit, the cumulative impact of all such home occupations, considered as a whole, shall not exceed any of the standards set forth in paragraphs (a) through (m) of this subsection.

Subsection 203.7 is amended to add child development homes and expanded child development homes to the list of allowed home occupations so that the entire subsection reads as follows:

- 203 7 The following uses shall be allowed as home occupations, provided, that the conditions specified in §§ 203.4 through 203.6 are met at the time of the establishment of the home occupation, and maintained on a continuing basis. The uses listed under this subsection shall include similar uses in each category
- (a) Child development home provided no more than two (2) persons who are not a resident of the dwelling unit shall be engaged or employed in the child development home;
 - (b) Computer programming,
 - (c) Cosmetologist, hair stylist, or barber;
 - (d) Dressmaking, sewing, and tailoring;
 - (e) Expanded child development home for between seven (7) and nine (9) individuals fifteen (15) years of age or less; provided:
 - (1) No more than three (3) persons who are not a resident of the dwelling unit shall be engaged or employed;
 - (2) A minimum of thirty five square feet (35 sq. ft.) of floor area per individual is provided including basement but excluding any accessory structure shall be utilized for the expanded child development home; and
 - (2) No more than three hundred and twenty square feet (320 sq. ft.) of the floor area of the dwelling including basement but excluding any accessory structure shall be utilized for the expanded child development home;
 - (f) Expanded child development home for ten (10) to twelve (12) individuals fifteen (15) years of age less may be permitted as a special exception by the Board of Zoning Adjustment under § 3104 and subject to the provisions of § 203.10; provided a minimum of thirty five square feet (35 sq. ft.) of floor area per individual is provided including basement but excluding any accessory structure;
 - (g) Home crafts, such as model-making, rug weaving, and lapidary work,
 - (h) Home office of a businessperson, sales person, or manufacturer's representative; provided, that the dwelling is not used as a gathering point for workers who are on the way to another work site,
 - (i) Home office of a physician or dentist, provided, that the physician or dentist may not also establish an accessory use pursuant to § 202,

Z.C. NOTICE OF PUBLIC HEARING

Z.C. CASE NO. 15-17

PAGE 5

- (j) Home office of a scientist, clergyman, inventor, academician, licensed health care professional other than one provided for in paragraph (k) of this subsection, or other professional person,
- (k) Mail order business,
- (l) Painting, sculpturing, writing, composing, photography, or other fine arts occupations practiced by an individual in a home studio, provided, that no more than sixty percent (60%) of the floor area of the dwelling unit may be devoted to the studio,
- (m) Telephone answering service and sales by telephone,
- (n) Tutoring of not more than five (5) students at any one time; and
- (o) Typing or word processing service

Subsection 203.10 is amended by adding the phrase “Except as provided in § 203.7(e)(1),” to the beginning of paragraph (c), so that the entire subsection reads as follows:

203.10 A home occupation that is not permitted or prohibited in this section may be permitted as a special exception by the Board of Zoning Adjustment under § 3104, provided

- (a) The proposed use and related conditions shall be consistent with the purposes set forth in § 203 1 and shall generally comply with the requirements of §§ 203 4 through 203 8, subject to specific findings and conditions of the Board in each case,
- (b) An applicant for a home occupation that is permitted by §§ 203.6 through 203.8 may request the Board to modify no more than two (2) of the conditions enumerated in §§ 203.4 through 203.8; provided that the general purposes and intent of this section are complied with,
- (c) Except as provided in § 203.7(e)(1), in no case shall more than two (2) persons who are not residents of the subject home be permitted as employees of the home occupation, and those persons shall not be co-practitioners of the profession;
- (d) Any request to modify more than two (2) of the requirements found in §§ 203.4 through 203 8 shall be deemed a request for a variance. However, a person with a demonstrated physical handicap may be permitted special consideration by the Board, and a request for more than two (2) modifications of the Home Occupation requirements shall be considered in this instance as a special exception governed by this subsection; and
- (e) In considering any request for approval under this subsection, the Board may impose conditions relating to operating conditions of the home occupation, parking, screening, or other requirements as it deems necessary to protect adjacent and nearby properties consistent with the general purpose and intent of this section.

Chapter 5, SPECIAL PURPOSE DISTRICTS is amended as follows:

Section 502, ACCESSORY USES (SP), § 502.6, is amended by inserting the phrase “or an expanded child development home” so that the subsection reads as follows:

502 6 A child development home or an expanded child development home shall be permitted as an accessory use in an SP District incidental to the uses permitted in this chapter, provided

- (a) The dwelling unit in which the use is located shall be the principal residence of the caregiver, and
- (b) The use otherwise shall meet the definition of a home occupation

Chapter 6, MIXED USE (COMMERCIAL RESIDENTIAL) DISTRICTS is amended as follows:

Section 601, MATTER OF RIGHT USES (CR), § 601.5, is amended by twice inserting the phrase “or an expanded child development home” so that the subsection reads as follows:

601 5 A child development home or an expanded child development home shall be permitted as a matter of right as an accessory use in a CR District, provided, the dwelling unit in which the child development home or an expanded child development home is located is the principal residence of the caregiver and the use shall otherwise meet the definition of a home occupation

Chapter 7, COMMERCIAL DISTRICTS is amended as follows:

Section 702, ACCESSORY USES AND BUILDINGS (C-1), § 702.2, is amended by inserting the phrase “or an expanded child development home” so that the subsection reads as follows:

702 2 A child development home or an expanded child development home shall be permitted in a C-1 District as an accessory building and use incidental to the uses permitted in §§ 701 through 711, provided

- (a) The dwelling unit in which the use is located shall be the principal residence of the caregiver; and
- (b) The use otherwise shall meet the definition of a home occupation

Section 722, ACCESSORY USES AND BUILDINGS (C-2), § 722.2, is amended by inserting the phrase “or an expanded child development home” so that the subsection reads as follows:

722.2 A child development home or an expanded child development home shall be permitted in a C-2 District as an accessory building and use incidental to the uses permitted §§ 721, 722, and 726 through 734, provided

- (a) The dwelling unit in which the use is located shall be the principal residence of the caregiver, and
- (b) The use otherwise shall meet the definition of a home occupation

Section 742, ACCESSORY USES AND BUILDINGS (C-3), § 742.2, is amended by inserting the phrase “or an expanded child development home” so that the subsection reads as follows:

742 2 A child development home or an expanded child development home shall be permitted in a C-3 District as an accessory building and use incidental to the uses permitted in §§ 741 through 744, provided

- (a) The dwelling unit in which the use is located shall be the principal residence of the caregiver, and
- (b) The use otherwise shall meet the definition of a home occupation

Section 752, ACCESSORY USES AND BUILDINGS (C-4), § 752.2, is amended by inserting the phrase “or an expanded child development home” so that the subsection reads as follows:

752 2 A child development home or an expanded child development home shall be permitted in a C-4 District as an accessory building and use incidental to the uses permitted in §§ 751 through 754, provided

- (a) The dwelling unit in which the use is located shall be the principal residence of the caregiver, and
- (b) The use otherwise shall meet the definition of a home occupation

Section 761, C-5 (PAD) DISTRICT USES, § 761.4, is amended by inserting the phrase “or an expanded child development home” so that the subsection reads as follows:

761 4 A child development home or an expanded child development home shall be permitted in the C-5 (PAD) District as an accessory use incidental to the uses permitted in this section, provided.

Chapter 31, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE is amended as follows:

Section 3104, SPECIAL EXCEPTIONS, is amended by inserting alphabetically the following new special exceptions into the chart appended to § 3104.1:

TYPE OF SPECIAL EXCEPTION	ZONE DISTRICT	SECTIONS IN WHICH THE CONDITIONS ARE SPECIFIED
Expanded child development home for ten (10) to twelve (12) individuals fifteen (15) years of age or less	Any R District	§ 203.7(f).

The public hearing on this case will be conducted as a rulemaking in accordance with the provisions of § 3021

How to participate as a witness.

Interested persons or representatives of organizations may be heard at the public hearing. The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The applicable time limits for oral testimony are described below. Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record.

Time limits.

All individuals, organizations, or associations wishing to testify in this case are encouraged to inform the Office of Zoning of their intent to testify prior to the hearing date. This can be done by mail sent to the address stated below, e-mail (donna.hanousek@dc.gov), or by calling (202) 727-0789.

The following maximum time limits for oral testimony shall be adhered to and no time may be ceded:

- | | | |
|----|---------------|----------------|
| 1. | Organizations | 5 minutes each |
| 2. | Individuals | 3 minutes each |

Pursuant to § 3020.3, the Commission may increase or decrease the time allowed above, in which case, the presiding officer shall ensure reasonable balance in the allocation of time between proponents and opponents.

Written statements, in lieu of personal appearances or oral presentations, may be submitted for inclusion in the record. Written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, DC 20001, by e-mail to zcsubmissions@dc.gov, or by fax to (202) 727-6072. Please include the case number on your submission. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

ANTHONY J. HOOD, MARCIE I. COHEN, ROBERT E. MILLER, PETER G. MAY, AND MICHAEL G. TURNBULL ----- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON SCHELLIN, SECRETARY TO THE ZONING COMMISSION.