

SUPPLEMENTAL REPORT

TO: District of Columbia Zoning Commission

FROM: Elisa Vitale Development Review Specialist
JLS
Jennifer Steingasser, Deputy Director Development Review & Historic Preservation

DATE: January 24, 2020

SUBJECT: Zoning Commission Case 20-01 – Setdown Report for a Proposed Text Amendment to Subtitle C, Chapter 11 General Waterfront Regulations

I. BACKGROUND

At its December 16, 2019, public hearing, the Zoning Commission asked the Office of Planning (OP) to provide more information with regard to the Waterfront Regulations (Subtitle C, Chapter 11) and the use prohibitions within a one-hundred year floodplain (C § 1102.4).

OP filed a setdown report on January 3, 2020 recommending that the use prohibitions be eliminated from the Zoning Regulations. At the January 13, 2020 public meeting, OP requested that the Zoning Commission defer action on the setdown to allow time for additional coordination between the Office of Attorney (OAG), Department of Energy and Environment (DOEE), and OP.

Based on ongoing discussions, OP proposes a modified approach that provides for special exception relief in lieu of the current use variance.

OP requests the following actions by the Commission:

1. **Set down** of the proposed modifications for a public hearing;
2. Authorization of the immediate publication of a Notice of Proposed Rulemaking for the proposed amendments with a 30-day notice period; and
3. Grant OP flexibility to work with OAG on the preparation of final text for advertising in the Notice of Proposed Rulemaking.

This report also serves as the prehearing report required by Subtitle Z § 501.

II. RECOMMENDATION

Title 11 (DCMR) is proposed to be amended as follows, with proposed new text in **bold and underlined** and deleted text with ~~strikethrough~~:

Subsection 1102.4 of Section 1102, GENERAL WATERFRONT REGULATIONS, of Chapter 11, WATERFRONT, of Subtitle C, GENERAL RULES, is amended by revising Section 1102.4, including a new Section 1102.5, and renumbering Sections 1102.5 and 1102.6 as follows:

CHAPTER 11 WATERFRONT

1100 INTRODUCTION

1100.1 This chapter identifies waterfront regulations proximate to the Potomac River, Anacostia River, or Washington Channel

....

1102 GENERAL WATERFRONT REGULATIONS

....

1102.4 The following uses ~~are prohibited~~ **shall be permitted as a special exception** within a one hundred (100)-year floodplain (“floodplain”), **if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9 and subject to the conditions in C § 1102.5:**

- (a) Residential uses with only one (1) or two (2) dwelling units;
- (b) Animal sales, care, and boarding;
- (c) Community-based institutional facilities;
- (d) Daytime care;
- (e) Education;
- (f) Emergency shelter;
- (g) Hospital; and
- (h) Lodging.

1102.5 The following conditions shall apply to any application for a special exception use under C § 1102.4:

(a) The Applicant shall provide an analysis as follows:

- (1) A site plan showing floodplain boundaries and base flood elevations for the property that is certified by a registered professional engineer, architect, landscape architect, or other qualified person;**
- (2) A description of how the project has been designed to meet applicable flood resistant design and construction standards that is certified by a registered professional engineer, architect, landscape architect, or other qualified person;**
- (3) An evacuation plan that describes the manner in which the property would be safely evacuated before or during the course of a one-hundred (100) year flood event; and**
- (4) A description of how of the proposed use would not result in any adverse impacts to the health or safety for the project’s occupants or users due to the proposed use’s location in the floodplain.**

(b) The Application shall be referred to the District Department of Energy and Environment (DOEE) for review and report which shall include, but not be limited to, DOEE’s recommendation;

(c) The Application shall also be referred to:

(1) District of Columbia Fire and Emergency Medical Service Department (FEMS);

(2) Metropolitan Police Department, and

(3) Homeland Security and Emergency Management Agency.

1102.56 Parking space requirements for the waterfront areas are as follows:

(a) Parking spaces, passenger drop-off areas, access to parking spaces, and access to loading areas, whether required by zoning or not, shall not be located within the waterfront setback area required in Subtitle C § 1102.1 (a); and

...

(12) All other requirements of Subtitle C, Chapter 7 will be met.

1102.67 The following structures and projections may encroach into any required waterfront setback:

(a) A structure, including a building, less than four feet (4 ft.) in height above the grade at any point. Any railing required by the Title 12 DCMR D.C. Construction Code, shall be calculated in the measurement of the structure’s height;

...