

MEMORANDUM

TO: Zoning Commission
FROM: ^{JLS} Jennifer Steingasser, Deputy Director, Historic Preservation and Development Review
DATE: February 16, 2018
SUBJECT: Zoning Commission Case No. 08-06A (O)
Request for Minor Modification to DCMR 11 Zoning Regulations as adopted in Case 08-06A

RECOMMENDATION

The Office of Planning (OP) recommends that the Commission make the following minor modification to the Zoning Regulations as approved in case 08-06A, and respectfully requests that the Commission authorize the issuance of a Notice of Proposed Rulemaking.

Subtitle U, Section 802 should be modified to include Large Format Retail as Special Exception Use in the Production, Distribution, and Repair (PDR) zones. The Zoning Commission, in its October 6, 2014 deliberations, voted in favor of OP's recommendation to require a special exception for Large Format Retail uses in the PDR zones and this intent was made clear in the Z.C. Notice of Final Rulemaking and Order No. 08-06A (see attached); however, the explicit special exception language was not included in the final text. Therefore, OP recommends Section 802.1(j) be inserted 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:

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

...
(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:

...
(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:**
 - (1) 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;**

- (2) Estimated number and type of trips assumed to be generated by project, and assumed temporal and directional distribution;**
- (3) Traffic management requirements (lights, stop signs, one-way streets, etc.);**
- (4) Relationship of the proposed project to the mass transit system (nearest bus stops and routes, nearest Metrorail stations, etc.); and**
- (5) Vehicular trip generation, trip assignment and before-and-after capacity analyses and level of service at critical intersections; and**
- (6) Any other information needed to fully understand the final building proposed for the site.**

Attachment 1

sensitive to the issue of spillover parking and adopted a limitation on those areas where no parking minimum would be permitted, and expressly required that areas west of the centerline of 20th Street, N.W., would be subject to a parking requirement. The Commission also concluded that the new D zones that were not previously covered by the DD overlay would be subject to Inclusionary Zoning.

Currently, the Zoning Regulations incentivize the development of certain preferred uses, such as residential and arts, by allowing the owners of developments in certain locations to generate transferrable development rights (TDRs) that can be sold to properties in receiving zones to increase those properties' development rights. Also, the regulations permit two or more lots in certain areas to combine for the purposes of satisfying minimum use requirements (CLDs). The new regulations replace these two (2) systems with a single process that will recognize the creation of credits based upon the development of those same preferred uses, which, depending upon the type of use developed, will serve the same purpose as a TDR or CLD. The rules vest already allocated TDRs and CLDs and allow existing unallocated TDRs and CLDs to be converted to credits if a TDR or CLD covenant has been recorded that includes a declaration binding present and future owners to reserve and maintain in perpetuity the square footage of the uses that generated the TDR/CLD Rights for which conversion is sought.

In response to comment received, the process and terminology used for acknowledging and transferring the credits has been greatly simplified.

Large Format Retail:

The adopted text requires Large Format Retail (also commonly referred to as “big box” retail) as a special exception use. OP had not recommended the use be subject to special exception but after hearing comment from the public about the potential for adverse impacts on neighborhoods due to traffic, loading and hours of operation, as well as the potential for the use to require buildings that could easily be out of character and have unsafe streetwalls and pedestrian spaces, the Commission concluded that the use would be best assessed as a special exception.

Loading:

The adopted text modifies the existing loading requirements by allowing but no longer requiring fifty-five feet (55 ft.) deep loading berths. Comments were submitted recommending clarification of the adopted text relative to locational restrictions and special exception relief. The Commission concluded that the comments provided clarity and adopted the changes.

Parking:

The adopted text modifies the existing parking requirements and recognizes the importance and daily use of transit throughout the District. The original OP proposal recommended a removal of most required parking minimums, and a shift to how parking would be calculated for other uses.