

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING

AND

Z.C. ORDER NO. 18-04

Z.C. Case No. 18-04

Office of Planning

**(Text Amendment to Title 11 [Zoning Regulations of 2016],
Subtitle A §§ 209.2 & 301.3 to Permit the Construction of
Playing Fields and Accessory Structures at Robert F. Kennedy Memorial Stadium)
September 17, 2018**

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 the adoption of amendments to Subtitle A (AUTHORITY AND APPLICABILITY), of Title 11 (Zoning Regulations of 2016) of the District of Columbia Municipal Regulations (DCMR).

The text amendments permit the matter of right construction and use of three (3) athletic playing fields and six (6) associated accessory structures without each structure being on separate lots of record located on unzoned land next to the Robert F. Kennedy Memorial Stadium. The amendments also provide for an unenclosed pavilion structure adjacent to the fields if approved by the Commission through the design review procedures of Subtitle Z, Chapter 6. The six (6) matter-of-right accessory structures consist of a visitor building, a storage building, a restroom facility and three (3) shade structures.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on July 13, 2018, at 65 DCR 7408; however, the proposed rule did not include a reference to the three (3) shade structures.

In response, the Commission received no comments.

The amendments were referred to the National Capital Planning Commission (NCPC) pursuant to § 492 of the Home Rule Act. The NCPC Executive Director, through a delegated action dated August 30, 2018, found that the proposed text amendments would not have an adverse effect on federal interests nor be inconsistent with the Comprehensive Plan for the National Capital. The delegated action went on to note that the proposed text was slightly inconsistent with the final site and building development plans before NCPC. The proposed text amendment would allow three (3) accessory structures and one (1) pavilion, while the final site and building plans also proposed a fourth (4th) accessory structure, that being a shade structure.

At its September 17, 2018 public meeting, the Commission asked the Office Planning to respond to the NCPC Director's report. The Office of Planning stated that the need for a shade structure was identified in the time between the public hearing when the Commission authorized the publication of the notice of proposed rulemaking and the time that plans were sent to NCPC for its review, and as a result, an accessory shade structure was not identified in the notice of proposed rulemaking. The Commission requested that the Office of Planning provide it with revised text to permit the shade structure.

The Office of Planning submitted a supplemental report dated September 18, 2018 that revised the proposed text to permit three (3) shade structures in addition to the three (3) accessory structures proposed, such that building permits for a total of six (6) accessory structure that could be constructed and used by right.

The Commission again considered whether to adopt the amendments at a public meeting on October 1, 2018, and asked the Office of Planning to explain why it was proposing text that would permit up to three (3) shade structures when only one was depicted in the plans before NCPC. The Office of Planning responded that it did so to permit one shade structure for each playing field.

The Commission then voted to adopt the amendments, including the change to the proposed text to increase the number of accessory structures from the three (3) described in the notice of proposed rulemaking to six (6).

The Commission determined that publication of a new notice of proposed rulemaking is not required because the proposed text is not being "substantially altered from the text published with the notice of proposed rulemaking." (1 DCMR § 310.5.) The only substantive alterations to the proposed text are the addition of a subparagraph to permit the three (3) shade structures by right and a nonmaterial reference to those the shade structures in an existing subparagraph. The potential need for shade structures at each playing field could have been anticipated by the public and therefore their addition flows from the proposed rule and is consistent with its original intent. The other changes are "re-wording to correct errors in format or style," as permitted by 1 DCMR § 310.6(B); namely the deletion of an "s" in subparagraph 209.2(c)(i) to correct a grammatical error, and the insertion of a closed parenthesis in subsection 301.3 to correct a grammatical error.

The amendments shall become effective upon publication of this notice in the *D.C. Register*.

The following amendments to Title 11 DCMR are adopted.

Subtitle A, AUTHORITY AND APPLICABILITY, is amended as follows:

Subsection 209.2, of § 209, RESTRICTIONS ON UNZONED LAND, of Chapter 2, ADMINISTRATIVE AND ZONING REGULATIONS is amended by adding a new paragraph (c) s follows:

209.2

Nothing in this chapter shall prevent the following:

- (a) Minor repairs and alterations to buildings and structures for which no building permit is required under the D.C. Construction Code Supplements;
- (b) A caretaker from residing on property formerly owned by the Government of the United States, or property in the Central Area formerly owned by the government of the District of Columbia, for which zoning has not been designated, for the purpose of maintaining and preventing the deterioration of the premises; or
- (c) Installation and use of playing fields and associated accessory structures to support such fields on the unzoned property comprising and abutting the Robert F. Kennedy Memorial Stadium, more specifically known as Parcel 149, Lots 65 and 66, subject to the following:
 - (i) Three (3) accessory structures shall be permitted: a visitor building, a storage building, and restroom facilities. Each permitted accessory structure shall not exceed a maximum height of twenty feet (20 ft.) and one (1) story, and a maximum gross floor area of one thousand square feet (1,000 sq. ft.);
 - (ii) Three (3) shade structures shall be permitted, provided that any individual shade structure shall not exceed a maximum height of twenty feet (20 ft.) and one (1) story, and a maximum gross floor area of six hundred and fifty square feet (650 sq. ft.); and
 - (iii) In addition to the three accessory structures listed in subparagraph 209.2(c)(i), and the shade structures listed in subparagraph 209.2(c)(ii), an unenclosed pavilion shall be permitted and used provided the Zoning Commission finds that said structure, as designed, meets the standards of Subtitle X, Chapter 6 other than § 604.8. The pavilion shall be either covered or uncovered, and have no greater than a six thousand square feet (6,000 sq. ft.) footprint. If covered, a canopy no greater than thirty feet (30 ft.) in height may be installed.

Subsection 301.3, of § 301, BUILDING PERMITS, of Chapter 3, ADMINISTRATION AND ENFORCEMENT, is amended to by adding a new (g) as follows:

301.3

Except as provided in the building lot control regulations for Residence Districts in Subtitle C and § 5 of An Act to amend an Act of Congress approved March 2, 1893, entitled “An Act to provide a permanent system of highways in that part of the District of Columbia lying outside of cities,” and for other purposes, approved June 28, 1898 (30 Stat. 519, 520, as amended; D.C. Official Code § 9-101.05), a building permit shall not be issued for the proposed erection, construction, or conversion of any principal structure, or for any addition to any principal structure, unless the land

for the proposed erection, construction, or conversion has been divided so that each structure will be on a separate lot of record; except a building permit may be issued for:

- (a) Buildings and structures related to a fixed right-of-way mass transit system approved by the Council of the District of Columbia;
- (b) Boathouse, yacht club, or marina that fronts on a public body of water, is otherwise surrounded by public park land, and is zoned MU-11;
- (c) Any combination of commercial occupancies separated in their entirety, erected, or maintained in a single ownership shall be considered as one (1) structure;
- (d) Trapeze school and aerial performing arts center to be constructed pursuant to Subtitle K;
- (e) A structure in the USN zone to be constructed on an air rights lot that is not a lot of record;
- (f) Buildings and structures approved as part of a campus or private school plan or medical campus plan; and
- (g) Playing fields and associated accessory structures to support such fields and, if permitted by the Zoning Commission, an unenclosed pavilion, on the unzoned property comprising and abutting the Robert F. Kennedy Memorial Stadium, subject to Subtitle A § 209.2(c).

On June 28, 2018, upon the motion of Vice Chairman Miller, as seconded by Commissioner Turnbull, the Zoning Commission took **PROPOSED ACTION** to **APPROVE** the petition at the conclusion of the public hearing by a vote of **3-0-2** (Anthony J. Hood, Robert E. Miller, and Michael G. Turnbull to approve; Peter A. Shapiro and Peter G. May, not present, not voting).

On October 1, 2018, upon the motion of Commissioner May as seconded by Vice Chairman Miller, the Zoning Commission took **FINAL ACTION** to **APPROVE** the petition at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Michael G. Turnbull, and Peter G. May to approve).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *DC Register*; that is on October 26, 2018.

BY THE ORDER OF THE D.C. ZONING COMMISSION

A majority of the Commission members approved the issuance of this Order.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING

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The full text of this Zoning Commission Order is published in the “Final Rulemaking” section of this edition of the *D.C. Register*.