

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



MEMORANDUM

To: Office of Documents and Administrative Issuance
From: Sharon S. Schellin ¹³
Secretary to the Zoning Commission
Date: December 28, 2006
Re: Publication for the Office of Zoning

Please publish the following in the *D.C. Register* on January 4, 2007:

1. Z.C. Notice of Public Hearing (Case No. 06-44); and
2. Z.C. Notice of Emergency & Proposed Rulemaking (Case No. 06-44).

Attachment

Office of
Documents and
Administrative
Issuances

2006 DEC 28 PM 1:27

12:48 PM

A handwritten signature in black ink, appearing to be 'SSS' or similar initials.

441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001

Telephone: (202) 727-6311

Facsimile: (202) 727-6072

E-Mail: dcoz@dc.gov

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ZONING COMMISSION
District of Columbia

CASE NO. 06-44
EXHIBIT NO. 4

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

**TIME AND PLACE: Monday, April 23, 2007, @ 6:30 P.M.
 Office of Zoning Hearing Room
 441 4th Street, N.W., Suite 220-South
 Washington, D.C. 20001**

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

Case No. 06-44 – (Text Amendment to Permit Temporary Accessory Bus Parking Lot for the Use of Washington Metropolitan Area Transit Authority on Square 700, Lot 46)

THIS CASE IS OF INTEREST TO ANC 6D

This proceeding was initiated by a petition filed on behalf of MR N Street Southeast, LLC, MR Ballpark 5, LLC and the Washington Metropolitan Area Transit Authority (“WMATA”) (collectively, the “Petitioner”), requesting a text amendment to the Zoning Regulations to permit the temporary use of an accessory parking lot for WMATA busses on Square 700, Lot 46. The property is zoned CR and mapped within one of the portions of the Capitol Gateway Overlay District where Zoning Commission approval of all new uses is required. The Zoning Commission recently issued a notice of proposed rulemaking in Z.C. Case No. 06-20 to temporarily allow accessory bus parking on Square 661, Lot 805 (98 R Street S.W.). Both proceedings stem from WMATA’s need to relocate parking for 76 busses currently housed at M and Half Streets, S.E. because that property is included within the site of the major league baseball stadium that is now under construction.

Title 11 (DCMR) is proposed to be amended as follows:

Chapter 6, MIXED USE (COMMERCIAL RESIDENTIAL) DISTRICTS, is amended by adding new section 601.7, to read as follows (new language not proposed as part of Z.C. Case No. 06-20 is shown in bold and underlined text):

601.7 Notwithstanding § 602.1, and not subject to any otherwise applicable proximity requirement, a surface parking lot accessory to the Washington Metropolitan Area Transit Authority garage facility located on Square 700, Lot 857, is permitted as a temporary use on:

- (a) Square 661, Lot 805, for a period of five (5) years maximum, beginning from the date of issuance of a certificate of occupancy for such use, with the 5-year period renewable by the Zoning Commission; **and**

- (b) **Square 700, Lot 46, for a period of three (3) years maximum, beginning from the date of issuance of a certificate of occupancy for such use, with the 3-year period renewable by the Zoning Commission.**

Proposed amendments to the Zoning Regulations and Map of the District of Columbia are authorized pursuant to the Zoning Act of June 20, 1938, (52 Stat. 797), as amended, D.C. Official Code § 6-641 *et seq.* (2001).

The public hearing on this case will be conducted as a rulemaking in accordance with the provisions of § 3021 of the District of Columbia Municipal Regulations, Title 11, Zoning. Pursuant to that section, the Commission will impose time limits on testimony presented to it at the public hearing.

All individuals, organizations, or associations wishing to testify in this case should file in writing their intention to testify. Written statements, in lieu of personal appearances or oral presentations, may be submitted for inclusion in the record.

Information should be forwarded to the Secretary of the Zoning Commission, Office of Zoning, Suite 210-S, 441 4th Street, N.W., Washington, D.C. 20001. Please include the number of this particular case and your daytime phone number. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

ANTHONY J. HOOD, GREGORY JEFFRIES, JOHN G. PARSONS, AND MICHAEL G. TURNBULL, ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY JERRILY R. KRESS, FAIA, DIRECTOR, AND BY SHARON SCHELLIN, SECRETARY TO THE ZONING COMMISSION.

RULEMAKING TRANSMITTAL FORM

TYPE OF RULEMAKING ACTION: EMERGENCY RULES
 FINAL RULES PROPOSED RULES COMBINED

AGENCY: OFFICE OF ZONING

AGENCY REPRESENTATIVE: MS. SHARON SCHELLIN

DATE AND TIME RECEIVED

Office of Documents use only

ADDRESS: 441 4th Street, N.W., Suite 210 South

TELEPHONE: (202) 728-0340

TITLE AND DESCRIPTION OF RULES: Case No. 06-44 – (Text Amendment to Permit Temporary Accessory Bus Parking Lot for the use of Washington Metropolitan Area Transit Authority on Square 700, Lot 46).

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed: NA

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 and D.C. Official Code § 2-505(c).

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: DECEMBER 27, 2006

SIGNED:

Alan Bryant

PHONE: (202) 442-9777

FINAL

CONDITIONAL

NAME: EUGENE A. ADAMS

TITLE: INTERIM ATTORNEY GENERAL

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 and D.C. Official Code § 2-505(c).

SIGNATURE OF THE PERSON AUTHORIZED TO ADOPT RULES OR ATTEST TO THE ADOPTION OF RULES

DATE OF APPROVAL OF VOTE:

11-13-06

APPROVAL OF ATTEST: Sharon Schellin

Sharon 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. 06-44**

**(Text Amendment to Permit Temporary Accessory Bus Parking Lot for Washington
Metropolitan Area Transit Authority on Square 700, Lot 46)**

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, 799; D.C. Official Code § 6-641-01 (2001)) and § 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2001)), hereby gives notice of the adoption, on an emergency basis, of an amendment to Title 11 of the District of Columbia Municipal Regulations ("DCMR") to permit the temporary use of an accessory parking lot for Washington Metropolitan Area Transit Authority ("WMATA") buses on Square 700, Lot 46.

The circumstances justifying emergency action are as follows: WMATA currently maintains a bus garage housing approximately 76 buses at M and Half Streets, S.E. The parking area that is accessory to this garage must be relocated in order to accommodate construction of the major league baseball stadium authorized by Z.C. Order No. 06-22. In order to complete the stadium on time for the planned 2008 opening, as required by the District's contract with Major League Baseball, construction of a replacement accessory parking area must begin as soon as possible.

Through a Notice of Proposed Rulemaking, published November 17, 2006, the Zoning Commission gave notice of its intent to permit the temporary use of Square 661, Lot 805 for a WMATA accessory parking facility (Z.C. Case No. 06-20). Other than that site, and the site that is the subject of this emergency rulemaking, there are few or no other suitable sites available to be used as temporary bus parking lots. Using normal rulemaking procedures would seriously delay construction of the proposed Ballpark and jeopardize the District's ability to meet its contractual obligations.

The emergency rulemaking took effect immediately upon its adoption on November 13, 2006¹ and will expire 120 days thereafter, *i.e.*, on March 16, 2007, or upon the publication of a notice of the final adoption of this rule in the *D.C. Register*, whichever occurs first.

The Commission also gives notice of the intent to take final rulemaking action to adopt these proposed rules not less than thirty (30) days from the date of publication of this notice in the *D.C. Register* or thirty days following referral of this amendment to the National Capital Planning Commission, whichever occurs last.

¹ A Notice of Public Hearing for this amendment is published elsewhere in this edition of the *D.C. Register*.

Title 11 (DCMR) is amended as follows:

Chapter 6, MIXED USE (COMMERCIAL RESIDENTIAL) DISTRICTS, is amended by adding new section 601.7, to read as follows (new language not proposed as part of Z.C. Case No. 06-20 is shown in bold and underlined text):

601.7 Notwithstanding § 602.1, and not subject to any otherwise applicable proximity requirement, a surface parking lot accessory to the Washington Metropolitan Area Transit Authority garage facility located on Square 700, Lot 857, is permitted as a temporary use on:

- (a) *Square 661, Lot 805, for a period of five (5) years maximum, beginning from the date of issuance of a certificate of occupancy for such use, with the 5-year period renewable by the Zoning Commission²; **and***
- (b) **Square 700, Lot 46, for a period of three (3) years maximum, beginning from the date of issuance of a certificate of occupancy for such use, with the 3-year period renewable by the Zoning Commission.**

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 filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, 441 4th Street, N.W., Suite 210-S, Washington, D.C. 20001. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.

² The italicized language was adopted by an emergency rulemaking, which has since expired. The expired text is being published in recognition of its status as a separately proposed rule.