

New Residential District Zoning Rules:

Transformative or Status Quo?

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What You Need to Know

- Zoning Commission has sole authority to write zoning regulations
- Zoning regulations cannot be inconsistent with Comprehensive Plan
 - Law passed by D.C. Council
 - Land Use Element policies given most weight per Home Rule Act

How Do You Evaluate the Proposals?

- Questions you should consider
 - Do Comp Plan policies necessitate regulation changes?
 - Do changes reflect new terminology for land uses?
 - If not, why are regulations being changed?
 - What is the problem the new regulation is addressing?
 - Is the new regulation consistent with Comp Plan?
 - What will be impact in my neighborhood/historic district?

Current Uses in Low and Moderate Residential Zones

- Number of Allowable Dwelling Units
 - One in most residential zones; two in R-4 (multiple in R-5)
- Accessory Dwelling Units (“ADUs”)
 - BZA approval in R-1 through R-3
- Home Occupations
 - Limited number of authorized work activities
 - Predominately solitary or low impact professions
 - Only resident gets permit
 - Limited to 250sf or 25% of floor area
 - No interior structural changes that prevent continuing residential use
 - Public Special Exception process if occupation not on list
- Church, embassy, public school, small CBRF, resident doctor or dentist office, resident operator child development or elderly day care home, 2 boarders

Comp Plan on Uses

- **Land Use Element**

- Maintain zoning regulations that prevent encroachment of inappropriate commercial uses in residential areas and limit scale of ones generally compatible
- New zoning regulations should more effectively manage allowable non-residential uses (home occupations) to protect neighborhoods from new uses that generate external impacts
- Encourage siting, retention and modernization of public facilities (schools, libraries, gov't offices) near transit stations and along transit corridors
- Maintain mixed use zones as buffer between residential and commercial districts and include institutional, non-profit, embassy/chanceries, and office-type uses
- Ensure that there will not be proliferation of transient accommodations in any one neighborhood

Comp Plan on Uses, cont.

- Economic Development Element
 - Encourage development of small local-serving offices within neighborhood commercial districts
 - Create additional shopping opportunities in neighborhood commercial districts to meet demand for goods and services
 - Plan to improve retail offerings in local commercial centers

Scope of Proposed Non-Residential Uses in Residential Districts

- Many more professions and non-residential activities allowed
- Specific non-residential uses replaced with broad use categories
- Most non-residential uses would not require owner to continue to live in home
- Some uses would allow house to be converted to non-residential use
- Some uses would no longer require special exception review
- No concentration limits in R-1 or R-2 districts except for CBIFs

Proposed Non-Residential Uses by Zone – R-1 and R-2

- Permitted/ R-1 through R-4
 - Agriculture, no parking requirement
 - Local government, 1 space per 2,000 sf
 - Residential/CBRFs, no parking requirement

Conditionally Permitted Non-Residential Uses by Zone – R-1 and R-2

- Conditionally Permitted
 - Accessory Dwelling Units
 - 25% of gfa
 - Owner must occupy ADU or house
 - No other accessory use in house (can be in garage; other uses can be in house)
 - No longer need special exception
 - Special exception for external ADU
 - Education
 - Minimum lot size and frontage/Different standard in R-1 than in R-2 through R-4
 - Emergency Shelter
 - 4 persons, excluding staff/ Same standard for R-3 and R-4
 - 1 space per 4,000 sf

Conditionally Permitted Non-Residential Uses cont.

– Institutional

- **House no more than 10,000sf/ Same standard for R-3; No restrictions in R-4**
- **No more than 60% lot occupancy**
- **No more than 2 others within 500ft of lot**
- **No parking up to 2,000sf, 1.5 spaces per additional 1,000 sf**

– Arts Design and Creation

- No more than 60% of fa of dwelling unit excluding garage and basement
- Accessory use to *predominate residential use*
- 1 non-resident practitioner or employee
- Special Exception needed if want to waive requirements
- No parking for 3,000sf, 1 space per 1,000 sf in excess of 3,000sf

– Temporary Housing

- 2 sleeping rooms, breakfast/ Same restriction in R-3 and R-4
- **Operator must own and reside in house**
- Special Exception needed if want up to 4 sleeping rooms or 6 rooms in contributing house in historic district
- 1 parking space per 2 rooms

Conditionally Permitted, cont.

– Office

- No more than 25% of fa of primary building, excluding garage and basement
- Accessory use to a *permitted or conditionally permitted use*
- No more than 1 non-resident of dwelling unit can be engaged or employed in use
- No parking for 2,000sf, 1 space per 2,000 sf in excess of 2,000sf

– Service

- No more than 25% of fa of primary building, excluding garage and basement
- Accessory use to a *permitted or conditionally permitted use*
- No more than 1 non-resident of dwelling unit can be engaged or employed in use
- No parking for 3,000sf, 1 space per 1,000sf in excess of 3,000sf

Special Exceptions Required – R-1 and R-2

- Basic Utilities/ R-1 through R-4
 - Electrical sub-stations, sewer plant, utility pumping station
- Chancery/ R-1 through R-4
 - Must have some other non-residential uses in area
 - No parking requirement up to 2,000sf/.75 per 1,000sf thereafter
- Community Based Institutional Facilities
 - Adult or youth rehab home, correction or detention facilities
 - Restrictions
 - 8 persons (excluding staff, supervisors, and families); no others in same square or within 1,000 ft.; 500 ft in R-2, R-3 and R-4
 - 1 parking space per 4,000sf

Still Get Public Review cont.

- Daytime Care/ R-1 through R-3
 - Pre-schools, elder care centers
 - 1.2 parking spaces per 1,000sf
 - No review in R-4 if limited to 16 persons and in institutional use building
- Education/ R-1 through R-4
 - Private schools/colleges/universities
 - 1 parking space per 2,000 sf
 - Campus Plan required for facilities of 300,000sf or more
 - Schools can choose campus plan rather than special exception
 - Add new program or structure up to 3,500sf without review during duration of plan
- Health Care/ R-1 through R-3
 - Doctor's office, medical or surgical care with overnight stay possible
 - 1 parking space per 1,000sf, in excess of 3,000sf
 - Could also be part of campus plan
 - No review in R-4
- Institutions/ R-1 through R-3
 - Private clubs, private libraries, non-profit social services, religious facilities
 - Over 10,000sf of gross floor area
 - 1.5 parking spaces per 1,000sf, in excess of 2,000sf
 - No review in R-4

How Would Use Rules Change in R-3 and R-4

- Additional Non-Residential Uses
 - Food and Alcohol Services
 - Retail
- Concentration Limit / 3 if only 2 others within 500 ft of lot
 - Arts Design and Creation
 - Food and Alcohol Services
 - Retail
 - Service

R-3 and R-4/Other Rules

- Proximity to Commercial Zone Limit / 500ft
 - Arts Design and Creation
 - Food and Alcohol Services
 - Retail
 - Service
- Limited to 1,200sf on ground floor, no use above ground floor, 4 employees at any one time, 8am – 8pm
 - Arts Design and Creation
 - Food and Alcohol Services
 - Retail
 - Service

A Quick Look at R-5 Residential Zones

- Every use allowed in less dense residential districts will be allowed in R-5 (retail, office, service, food and alcohol, etc.) and perhaps with fewer restrictions like the “initial” limit on on-site cooking and alcohol sales
- Current regulations for convenience stores
 - Special Exception
 - No exterior door; Substantially supported by building residents
- New proposed concept
 - Matter of right
 - Concentration limits
 - Ground floor, area limit, number of employees, hours

Are Area Requirements in R-1 through R-4 Residential Zones Changing?

- **Comp Plan, HP Elem: Reduce height limit to predominate height of contributing buildings**
 - Height remain the same, no story limit
- **Comp Plan, LU Elem: Consider sliding scale for maximum lot occupancy based on lot size to reduce excessive building mass**
 - 50% lot coverage with Special Exception in R-1 and R-2
 - 70% lot coverage with Special Exception in R-3 and R-4
 - Building footprint regardless of lot size
 - 900 sf in R-1-B even if exceeds 40% lot occupancy
 - 600 sf in R-2 through R-4

Changes in Area Requirements

- Minimum Lot Sizes
 - R-1-A divided into multiple zones some with larger lot sizes; R-1-B no change
 - R-2 / From 3-4,000sf to 3,000sf
 - R-3 / From 2-4,000sf to 2,000sf
 - R-4 / From 1,800-3,000sf to 1,800sf
- Side Yards
 - R-1 and R-2 / 10% of lot width
 - R-3 and R-4 / 20% of lot width
- Rear Yards
 - Non-conforming rear yards may have additions
 - Guaranteed depth of house = 30ft from front lot line
 - Must preserve 3 ft of rear yard

Take Away Message

- Broadly defined commercial uses coming to residential districts
- No public review
- Only some are limited and controls may not prevent adverse impacts
- No protections for historic districts
- Expanded opportunities for residential housing to be used for institutional use
- No concentration limits on community based residential facilities to ensure they are spread around the city
- No realistic provision for parking or potential loading issues
- Uncertainty about how special exception requirements will be applied

What Can C100 Do?

- Get the message out to community groups, ANCs; Create a coalition
- Prioritize issues
 - Should some categories or uses be prohibited
 - Are more controls needed, are the proposed controls adequate
 - Should historic districts be exempt – why should area standards be changed in HD
 - What should be special exception standards
- Demand that OP map these changes now
- Carefully review proposed text amdts.
- Testify and encourage others to testify at ZC hearings on text amdts.

NOTES

- 1) N/A
- 2) N/A
- 3) N/A
- 4) CBRFs allowed are community residence facilities or health care facility for 6 persons plus staff. Seven or eight persons can be served by one of these facilities if there are no similar facilities for 7 or more within 1,000 ft. The distance gets reduced for the more dense neighborhoods. Emergency shelters for 4 persons are also currently allowed. Child development centers for 16 or fewer children are allowed in R-4. Hospitals, private clubs, CBRFs for the disabled, and rooming houses are also allowed in R-4 districts. Hotels are added in R-5 districts with restrictions and larger community residence facilities and health care facilities in R-4 are also allowed but with concentration limits. The consistent thread is that most of these uses are allowed because a resident of the house is the practitioner. That is not the case with CBRFs but there is a general understanding that welcoming these facilities when they are small is a social obligation of community, but there are also restrictions to avoid a concentration of these facilities when the size and type might present conflicts with the residential character.
- 5) Maintain means keep the regs you have to prevent inappropriate commercial uses. This is talking about the list of allowable home occupation rules which very tightly restrict non-residential uses and the group residential uses that can cause conflicts and concerns about concentrations of them in one neighborhood. The call for new regulations pertains to more effectively managing these uses so they don't cause negative impacts. The Comp Plan is not endorsing opening up non-residential uses in residential districts. Its saying let's better control what we currently allow.
- 6) The CP policy on local-serving offices specifically mentions real estate and insurance offices, accountants, consultants, and medical offices. As you will see in future slides many of the uses the CP intends for commercial districts or mixed use districts are being promoted in residential districts.
- 7) Currently in commercial zones there are lists of retail and service uses that are allowed. The list varies according to the geographic reach of the commercial zone...is it meant to serve the neighborhood, a group of neighborhoods, or a region? The allowable uses correspond to the needs of the population intended to be served. OP proposed and the ZC approved replacing the commercial lists with broad categories. So instead of restaurants, but not fast food authorized for C-2-A, the new category would be Food and Alcohol Service. These broad use categories will apply to all zones whether they are commercial or residential. OP has proposed controlling the potential impact through performance standards. They define those standards as hours, number of employees, amount of square footage, signs, parking, etc. So if a category is allowed in your residential zone district any use under that umbrella can come in but some will have restrictions.

- 8) Agriculture is distinguished from animal sales, care, and boarding which is another category. Currently, produce and truck farms are allowed and boarding of horses is allowed with special exception. Under agriculture category any sale of produce, livestock, poultry, etc. would occur off-site. The local gov't category includes libraries, fire stations, and police stations. CBRFs have been split into a use under the residential category and a new category titled community based institutional facilities. CBRFs include homes for the disabled, the elderly, youth, and substance abusers. Note that substance abusers homes currently require a special exception but under new rules would be matter of right. Community residence facilities that serve 9-15 clients are currently required to seek a special exception. One of the standards is that there not be other CBRFs serving 7 or more persons within a radius of 1000 ft in R-1 or 500 ft. in R-2 through R-3. The new zoning reg would eliminate special exception review, the size standards and the concentration standards. Also, CBRFs are currently counted when calculating concentration limits for some other non-residential uses. By moving CBRFs to the residential category, their existence in a neighborhood will no longer effect how many other non-residential uses might come into a neighborhood. You will see where this matters in later slides.
- 9) Shelters serving more than 4 persons would still need a special exception, but it is uncertain whether the existence of CBRFs in the neighborhood will be included in any concentration limits as is currently the case. The new approach to consideration of concentrations of CBRFs in a neighborhood seems to be to only consider that concentration of the type of residential housing applying for the special exception. If the application is for a larger shelter then the number of shelters in a prescribed area would be considered, but the cumulative impact of CBRFs, CBIFs, or health care facilities (all currently considered when listing concentrations) in the neighborhood would no longer be considered. The new special exception rules have not been drafted. Education by definition is a traditional or charter DC public school. Private schools and colleges also are included in this category but since they are not operated by DCPS they are subject to special exception...more on that later.
- 10) Institutional category would include private clubs and libraries, non-profits, and churches. Currently, non-profits can only locate in R-1 or R-2 with a special exception but they are limited to using historic home or home in historic district that is in excess of 10,000sf. Private clubs are currently not allowed. All homes in R-1, R-2, and R-3 would meet the no more than 60% lot occupancy requirement and very few would be more than 10,000sf, so effectively any home in these districts could be converted for use by non-profit or club. Allowing non-profits and other institutional uses to occupy contributing houses in historic districts without any review may concern preservationists.

The significant change for arts design and creation is that it does not carry over the home occupation prohibition against structural alterations that would make it difficult to return a premises to an exclusively residential use.

This is something that might also concern preservationists. Like most of the uses, with exception of a B&B, arts and design does not require a resident to be the practitioner of the use as home occupation regs currently require. The category includes broadcast and recording studios, as well as studios for arts creation. This is one of the few categories that requires a continuing and primary residential use in the house.

The B&B use is the only use, in addition to ADUs, that requires the practitioner or operator to reside in the house. Here they also have to own the house.

- 11) Office is described as having infrequent contact with the public. Examples are accountants and real estate offices. If services are provided those services are provided off-site.

Service is described as work performed for a fee and as having moderate to frequent contact with the public. Examples include banks, appliance repair, travel agency, fitness center, tailor, parcel delivery service. In both cases the proposed regs carryover the home occupation regulations that the activity not result in more than 8 customers or visitors in an hour and no more than 8 daily vehicle trips on a regular basis. It is hard to know how that rule would be enforced. Those regulations also apply to arts design and creation. The terminology "accessory to permitted or conditionally permitted use" is significant. It means that the principal use does not have to be residential. Residential is only one of several permitted uses. So how could this work? A group home or a non-profit or a residence could be the principal use with an office or service use as an accessory using 25% of the house. The control that OP thinks is significant is that only 1 non-resident could be employed or engaged in the office or service business. Some people may think that begs the question, which is whether the use is appropriate at all in a residential neighborhood.

- 12) Special exception review would allow up to 15 persons in CBIF in R-4 district.

The change shown on this slide pertains to CBIFs. OP has taken substance abuse homes out of the rehabilitation facilities list and categorized them with elder and child community residential facilities as residential and thus, matter of right in every residential district. Then OP has grouped rehabilitation homes and detention centers in the new category, CBIF. Currently, the concentration restrictions count all CBRF facilities; under the new rules CBRFs would likely not be considered in determining concentration limits.

- 13) The private school review has been in flex. For many months schools below a certain square footage would have been exempt from review. Now all private schools will be reviewed, but it seems that they will be able to choose between a special exception review and campus plan review. That is significant because the campus plan process would include an allowance for the school or university to add up to 3,500sf of program or building that is not authorized in campus plan without having that expansion publicly reviewed. In addition, campus plans will allow up to 50% of the square

footage to be used for ancillary uses, such as retail, utilities, and health care. When town/gown issues are often highly controversial allowing additional building or program with no ability for the community to register comments is a noteworthy change.

Currently, the special exception standards for health care facilities restrict approving them in areas with a concentration of CBRFs. Since CBRFs are now permitted uses, it is unlikely that their proximity to a proposed health care facility will be considered. In addition, health care facilities could be located in residential area as part of a campus plan.

- 14) Food and Alcohol category would **initially** prohibit on-site cooking and alcohol sales. Initially is OP's choice of word. OP has been very reluctant to stray from their commitment to having broad categories and anything goes within that category. They only want to control these uses through number of employees, hours, or what they call performance standards. The category includes cafes, bars, nightclubs, fast food, delis, etc. Definition describes the use as sale of food, alcoholic drinks, or refreshments prepared on the premises and sold to customers for consumption on or off premises. Retail is described as having moderate to frequent contact with the public. Examples given are antique shop, drugstore, grocery store, jewelry store, bike shop. Neither of these categories are currently allowed in these residential zones.
- 15) N/A
- 16) There is potential for significant changes in R-5, which includes many row house areas, in terms of the commercialization of the neighborhood. OP has promised to rezone the R-5 row house areas to less dense zones but they won't do it until after the new zoning code is implemented.
- 17) In R-3 and R-4 districts where there has been a range of lot occupancy based on housing type the new rules apply the larger lot occupancy regardless the housing type.
- 18) What's happening with new rules is that housing type doesn't matter. If you are in a particular residential zone all houses will be subject to the least restrictive lot requirement, less restrictive lot width requirements, and most liberal lot occupancy requirement. In addition, side yards will no longer be 8 feet but will be based on lot width which varies often from lot to lot. This will pose some challenges for HPRB when they scrutinize building proposals in historic districts. There is a general rule that additions be narrower than the original house, but now the side yard rule will allow additions that in many cases may be wider than original houses. In addition, each lot may have a different width so the side yard allowance may be 3 feet for one house and 5 feet for another house on the same block. Then of course there is an issue of open space...
When you combine the guaranteed footprints and the allowance that rear yard requirements are not always enforced who benefits? It surely allows building on some currently substandard lots. It allows row houses to build back in some cases with no review of impact on adjacent neighbor. Since OP has not mapped any of these changes, we can't say where the 30 ft rule will

apply, we can't say where a developer or owner would use the footprint and avoid lot occupancy limits. We also can't determine where a developer might build a detached or semi-detached house on a lot previously limited to row houses. As a result of these rules, will a different housing type be proposed in historic districts? Will there be teardowns in neighborhoods where a developer could subdivide a large lot into smaller lots and get more structure than he could now?

19) N/A

20) No one knows that a dry cleaner could open next to them or that a grocery store could suddenly pop up on the ground floor of the house next door on Capital Hill or that a café or deli could suddenly be your neighbor. Or that the initial restriction on alcohol sales and on-site cooking are intended to be lifted in R-3, R-4, and R-5 neighborhoods whenever OP decides the time is right. A neighborhood can't decide if they want to embrace these changes or oppose them if they don't know about them.

As I said earlier it is difficult to know where 500 ft from a commercial zone is in any given neighborhood. Or how many retail uses could open on Capital Hill or Glover Park given the 3 per 500 ft rule. How many food and alcohol uses could there be? When will OP ask ZC to lift the alcohol sale restriction? These and other questions should be asked and answered before the changes are finalized.