

ZRR: What's Changing in Ward 1

ZRR Briefing for Ward 1 Residents

By The Committee of 100 on the Federal City

Committeeof100.net

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When Can You Be Heard?

- February 13 – Zoning Commission hearing for Wards 1 & 2, DC Housing Finance Authority, 815 Florida Ave., NW, 6PM
- Register to Testify: Call Donna Hanousek, 202-727-0789 or email Donna.Hanousek@dc.gov. Provide name, phone number, and ward.
- Written testimony: Accepted until 3PM on March 3rd. Call Donna Hanousek for information on submitting.

ZC wants to hear from Ward 1 residents. They know that proposals will have consequences and they want to know from you what the effects could be in your neighborhood. While a proposal might be favored in one ward it might have different result in your ward and ZC wants to consider that. Stories about what works or doesn't work in your neighborhood are very helpful. Currently, the ZC is limiting testimony to those who did not testify at hearings held in November. ANC commissioners who testified at special ANC hearing in January held at the Wilson Bldg. will be able to testify at the ward hearing but they are expected to raise different topics.

Committee of 100 Policy on Zoning Revision

The Committee of 100 supports a revision of the current zoning regulations that will produce

- A diverse and inclusive city, full of opportunity and choices in lifestyles, housing, transportation, education and employment;
- Local solutions that will preserve our distinctive neighborhoods and protect the environment; and
- Decision making that retains residents' rights to influence growth and change in our neighborhoods

How Do You Find Out What's in ZRR's 1,000 Pages?

- Online at dcoz.dc.gov/ZRR/ZRR.shtm
Click on subtitle for table of contents
 - R4 regulations are in Subt. E
 - R5 regulation are in Subt. F
 - Commercial zone regulations are in Subt. G
 - Overlay regulations are in Subt. H
 - Regulations regarding lot occupancy, yard setbacks, height, parking, non-conformities, and uses are in Subt. C and the zone subtitle, ie., Subt. E for residential flats
- Transcripts, videos, regulations, written testimony at <http://dcoz.dc.gov/news/2013/news122013.shtm>
- One hard copy in every library

A stumbling block in learning about ZRR is the lack of reference to the existing code – what is changing and how is it changing? There are crossover lists prepared by OP but we have not found them particularly helpful or comprehensive. One reason it would have been helpful to show existing regs and proposed changes is because OP proposes to change the names of all the zones. R4 will be in parentheses behind the new name which is Residential Flat zones to help orient you. In addition to getting used to new zone names, you also need to know that many terms have different meanings now. For example, institutional now means churches and schools. In the new code institutional does not includes churches and schools, instead it includes private clubs and non-profits. Retail currently is defined with a list of businesses, like department store or lamp store. OP is proposing to eliminate the list and replace it with a general description of retail. If any retail store is allowed in a neighborhood or commercial area under the new regulations any business that falls within that general category would be allowed. The same would apply to service or office uses. You will find definitions and examples for zoning terms in the beginning of Subt. B and the new use categories, like retail, at the end of that subtitle. Meetings devoted to explaining terms, the special exception process vs. the variance process, how rowhouse regulations are different from detached house regulations would have been helpful to orient residents so that we have a basis for evaluating the changes and how they will affect our properties and our neighborhoods.

Downzoning R5 Rowhouses

Existing Regulations

- R4 - single family and conversions to two-family flats
 - apartment conversions if 900 sf of lot area per unit
- R5 – rowhouses and apartments
 - no limit on number of units
 - height ranges from 50 to 90 ft for R-5-D

Proposed Regulations

- R4 becomes RF1
 - Apartment bldg defined as 5 or more units
- 3 story rowhouse in apartment zone (R5) becomes RF4
 - Maximum height = 40 ft; maximum units = 3
 - 750 sf of lot area per unit
- 4 story rowhouse in apartment zone (R5) becomes RF5
 - Maximum height = 50ft; maximum units = 4
 - 750 sf of lot area per unit

The current purpose of R4 zones is to stabilize rowhouses as single family dwellings. This zone is not intended to be an apartment zone, but there is very little to prevent it. The current regs allow 2 flats to be created in R4 neighborhoods and if the lot is sufficiently large any house can be converted to an apt. bldg based on 900 sf of lot area per unit. So if you have a 5000 sf lot, you could convert a single family home into 5 apts. This scenario is easier to do in R5 zones where rowhouses intermingle with apt. bldgs. In this zone there is no minimum lot area per unit and there are permitted heights that far exceed rowhouse heights. The pressure to demolish these houses or convert them is great and there are no obstacles to doing it if the neighborhood isn't in an historic district. In response to effective lobbying from your neighbor, Ann Hargrove, OP is proposing to create new rowhouse zones. The intention is to get rowhouses out of R5 and into new residential flat zones. There are a number of issues with OP's proposal. First, the R5 rowhouses would not automatically go into a more protected new zone. There would be a mapping process that would not prevent conversions to an apt bldg while this process unfolds. Second, the protection against apt. conversions would only apply to houses in these new zones. The housing currently in R4 neighborhoods that is being converted to apt. bldgs with the minimal condition of 900 sf of lot area per unit would continue. Third, the new zones would reduce the minimal standard to create flats from 900 sf to 750 sf. In the new FR 4 and 5 zones. As you can see in the slide, more flats would be allowed in these zones and OP is recommending that instead of requiring 900 sf of lot area as a condition for creating each flat, that only 750 sf of lot area be required to create flats in these new zones. That is an anomaly that was mentioned by some witnesses at the November ZC hearings. Why not 900 sf as the consistent standard for the creation of flats? So what would happen if the allowance for an apt. conversions of houses were removed from the zoning revision in R4 neighborhoods? An R4 property owner could still seek permission from BZA for an apt. bldg conversion but the standard of review would most likely be for a variance, which is a much more difficult standard based on exceptional circumstances. If you are concerned about the conversion of houses in R4 zones or R5 zones to apt. bldgs you should let the Zoning Commission know what the effect is on your neighborhood. You might also request a moratorium on conversions while remapping takes place so that there isn't a rush to convert houses before they can be protected. If you support the continuation of these conversions should also let them know.

Equally important to consider – and please listen because this is very important – is that RF zones are not exclusively rowhouse zones. There are detached and semi-detached houses in rowhouse neighborhoods. The proposals that apply to rowhouses would apply to these homes. OP is not proposing to change the permission to convert detached and semi-detached homes into flats or apt. bldgs. If you are concerned particularly about this type of housing, you have to tell the ZC what you want in terms of protections or allowances for these homes..

Flats in Accessory Buildings in RF and A Zones

Existing Regulation - Not allowed in accessory building

Proposed Regulation - Allowed in accessory building as one of allowable flats

- Built by January 1, 2013
- Setback 12 ft from center line of abutting alley

Special Exception Relief

- To build new or larger accessory building for residential use

This is a change. If you have a rowhouse that is eligible to be split into flats, then one of those flats could be created in a garage or accessory building on your lot. Flats are apartments; the term flat is only used in R4 zones; in many other neighborhoods these apts are called accessory dwelling units or ADUs. Accessory building is a term used to describe a structure that is smaller than your house; it could be a garage, a shed, a poolhouse, a carriage house. A condition for creating a flat in an accessory structure would be if the building abuts an alley, the building must be at least 12 feet from the center line of the alley. You also have to have access either through a side yard (not possible for rowhouse) or an alley that is at least 24 ft wide. In other words as long as you abut a 24 ft wide alley the apt. could be in an accessory building on the rear lot line. No notice to neighbors or ANC would be required. So a rowhouse owner with 750sf or 900 sf of lot area per unit, depending on the RF zone, could choose to locate one of the allowable flats in a garage or accessory structure.

In addition your neighbor could build or install a new structure or add to an existing accessory structure. The new building could be 20 ft high and 2-stories and if it is intended to be used as a flat the proposal would need a special exception. In this instance, you would get notice and have an opportunity to participate in a public hearing at BZA. Its important, however, to understand that special exceptions are almost always approved and that the only question is whether there will be conditions placed on the use. If there were no special exception mentioned in this proposal then it would take a variance to build new or larger for an apartment and that is very difficult to get. The OP is proposing the easier hurdle.

In terms of how many people could live in a flat, alley dwelling, or apartment unit OP is recommending a limit of 6 unrelated people per unit. There is no limit on the number of related people in a residential unit.

Alley Dwelling in RF and A Zones

Existing Regulation

- artist studio, if have 450sf of lot for each artist and apprentice
- one family dwelling, if on 30 ft alley and have minimum lot area (R4 rowhouse = 1800 sf)
- Height = alley width

Proposed Regulation

- one family dwelling, or multiple dwellings in A zones, if on 24 ft alley and have 450sf of lot for each unit
- height = 20 ft and 2-stories

Special Exception Relief

- alley less than 24 ft in RF or A zones
- less than 450 sf in A zones

There are approx. 1700 alley lots in DC, 40% of them are zoned R4 and in Ward 1 there are 219 of these lots. Currently, alley dwellings can be used for a single family residence if the lot is required size for the zone – R4 that would be a 1,800 sf lot – and the lot abuts an alley that is at least 30 ft wide. The width of the alley requirement would be reduced to 24 ft. and if the alley width is less than 24 ft a special exception could be sought. The required lot size would be greatly reduced from 1800 sf in R4 neighborhoods to only 450sf. This will presumably allow the creation of many more alley dwellings. Alley dwellings could not be used for corner stores but they could have home occupations in them as long as the resident is the business operator.

In apartment zones, alley lots could be used to develop multiple residential units. Each unit created must have 450 sf of lot area. Owner of alley lot could seek a special exception to waive the alley width requirement and the 450 sf per unit requirement.

Rooming or Boarding House

Existing Regulation – no limit on number of boarders

Proposed Regulation – limits number of persons living in a boarding house in RF zones, or in a rooming house or boarding house in A zones, to 8 persons

This is a welcome change. It applies to both residential flat zones and apartment zones.

Roof Structures

Existing regulation

- 18 ft 6 in above the roof and setback from all sides distance equal to height

Proposed regulation

- 10 ft above the roof and setback only from the front a distance equal to height

Apartment zones

- 18 ft 6 in above the roof and setback only from front distance equal to height, 50% of height from non-adjointing sides and no rear setback

Special Exception Relief

- Standard changed for apartment zones from relief won't tend to affect adversely use of neighboring property to won't have a substantially adverse affect on abutting or adjacent properties

Roof structures are intended to house mechanical equipment, stairwells, and elevator overruns, but they are increasingly being used for recreational activities. OP is proposing in the lower density residential zones that roof structures could be used for communal recreation activities, but there is no corresponding proposal for R4 zones. The Zoning Administrator has been allowing roof decks in all R zones, including rowhouse zones and there are no proposals to change that permission. But it appears that in RF rowhouse zones communal recreational activities would not be allowed in a roof structure. They would be allowed in apartment zones and the roof structure height would continue to be permitted at 18 ft 6 in.

The change here in addition to the lower height in rowhouse zones is the setback. Currently, a roof structure must be set back from all sides a distance equal to the structure's height. The proposed reg would apply that standard only to the front. Half the height would be the required setback from the sides as long as there was not a taller abutting building, and there would be no required setback from the rear. Also, we noted that the special exception standard applied for waivers from roof structure regulations is different in apartment zones. The effect of granting the waiver would have to be shown to cause very serious issues to prevent its approval or to result in conditions.

Pop-Ups in RF and A Zones

Existing Regulation

- Allow vertical additions on rowhouses up to zone height limit so long as FAR, limitation on number of units, and other development standards are met

Proposed Regulation

- No change

Pop-ups are a huge issue in Ward 1. CM Graham testified at the ZC asking them to address this issue so that these vertical additions would be stopped. The Office of Planning didn't seem sure they wanted to do that or knew how to do it. At the ZC ANC hearing in late January, Chairman Hood said that the ZC had asked OP to give them a recommendation on how to address this practice. One way would be to limit heights to the predominate existing height. Georgetown has asked for this protection for their rowhouses and OP is recommending a height maximum reduction from 40 ft to 35 ft in G'town. If you are concerned with pop-ups, you should mention them in testimony to the ZC – tell the ZC the way you want it addressed.

Home Occupations

Existing Regulation

- Limited list of specific occupations
- Conditions including number of employees, space limits, etc.
- Not allowed in accessory structure
- Special exception

Proposed Regulation

- Cottage food business and non-profit organization added
- Removed regulation barring retail and service uses authorized for commercial zones from becoming home occupations
- Not allowed in a flat in accessory building
- Special exception

Apartment Zone

- Not allowed in accessory structure unit
- Special exception

This is a tricky one. After a lot of controversy and opposition, OP restored most of the HO regulations. But there are a few significant changes. Cottage food business has been added and non-profit organization has been added. In all other instances a home office is designated for a person, but in this case it is designated for an organization. This use has been added as an allowed home occupation in all residential zones. In addition, there could be a home occupation in an accessory structure as long as it is not being used as a residence and the business operator lives in the main house. So every flat no matter where it is located could have one or more home occupations.

The range of commercial occupations the Zoning Administrator might allow could greatly exceed the list of specific types of businesses. OP has asked the ZC to group types of businesses into broad categories, like retail, service, and office. At the same time, OP is recommending that the current language stating that similar occupations in each category are intended to be permitted be retained. Since the categories in the current code are narrow occupations, like tutoring and hair stylist, it is easy to predict what would be similar professions. But when you couple "similar occupations in each category" with the new meaning of category, would the ZA decide that since tutoring is a service that all service businesses could be home occupations? If the ZC doesn't state that the intent is not to allow an expansive list of businesses as home occupations, it is very likely that ZA will have an expansive view about what is allowed. Keep in mind that the prohibition against establishing retail and service businesses allowed in commercial zones as home occupations is proposed to be removed. Thus, there would be no bar to the ZA deciding that these businesses can be set up as home occupations. There would be a limit on the number of non-resident employees at 2.

Here is something else to consider – OP is recommending that accessory structures can increase in height from 15 ft to 20 ft and from 1-story to 2-stories. The only review would be if someone planned to build a larger structure for residential use. A larger structure could be built or an existing garage or accessory structure expanded by right for a home occupation. There are many opportunities for greater intensity of use of residential property contained in these proposals...and most would not require notice to neighbors, ANC or public review. All of the proposed changes we are mentioning would require public review now.

Corner Stores – R4

Existing Regulation

- Not allowed, unless in existence prior to 1958

Proposed Regulation

- Allowed on corner lots
 - 500 ft from commercial or Food & Alcohol corner store, or 3 other permitted corner store uses
- Allowed on interior lots
 - if built for non-residential use;
 - certificate of occupancy for any corner store permitted use in past 3 years

Special Exception Relief

- BZA may waive all of the above location and concentration requirements

Corner stores are a controversial proposal since this introduces more commercial uses into predominately rowhouse neighborhoods. Its been publicized by OP as extending the grandfathered stores on Cap Hill and G'town across the city. These businesses could open on ground floor of any corner house – rowhouse or detached house - without notice to ANCs or residents. Its been talked about as rowhouse corner stores but these stores could open in any corner house in this zone and with a special exception just about anywhere else. The proposed protections against too many of these stores or stores in inappropriate locations could be waived with a special exception. As you know, special exceptions are rarely not approved and the only question is what conditions might be placed on the business. Corner stores could not be opened in an alley dwelling or in an accessory structure. Corner stores can only go into houses that are one family, so if the corner rowhouse or detached house has been converted to flats or an apt bldg, you cannot have a corner store.

Proposed Conditions on All Corner Store Uses

Size – 1,200 sf on ground floor

Liquor sales – 15% of the store square footage

No cooking on premises

No consumption of alcohol on premises

No external trash storage or use or storage of dry cleaning
chemicals

(Read conditions) The conditions listed on this slide can only be waived by variance, which should be a very high hurdle for the applicant. But all other aspects of corner stores would be determined by the business owner or by special exception depending on the type of store. The proposed maximum size of the store is interesting. If the property owner wanted to have as large a store as allowed and his current building footprint was less than the allowed lot occupancy or he got a special exception to increase his allowed lot occupancy, he could build out the ground floor by right. In historic districts this would be reviewed by the HPRB, but in non historic districts it would require only building permits.

Retail, Service, Eating and Drinking Establishment, Arts
Design & Creation Corner Stores

Existing Regulation – Not allowed, unless in existence prior to
1958

Proposed Regulation – Allowed with special exception

Read slide. So what would the special exception cover? Hours, number of employees, amplified outdoor music, outdoor seating – would be determined by the business owner and considered by the BZA. There could also be proposed alterations to the property, including tree removal, and the addition of retaining walls, patios, and changes to window and door openings. The Comm. of 100 has urged the ZC to not approve the corner store proposals and instead to encourage R3 and R4 neighborhoods that want these commercial uses to work with their ANC and residents to develop a proposal with the limits and conditions for the location and type of store that might be appropriate included and then to ask the ZC to approve regulations based on what you want. We think that some communities may not welcome corner stores or may not agree with the breadth of the permission, and they should not have this change imposed on them.

Corner Food Stores

Existing Regulation – Not allowed

Proposed Regulation – Allowed

- Hours – 7am to 9pm
- No employee limit
- No parking or loading requirement

As with the other types of corner stores the only conditions that would be hard to waive are the conditions on store size, cooking, alcohol consumption, % of space for alcohol sales, dry cleaning chemicals and outside trash. Are these the only conditions that should be hard to waive? Should there be other conditions that aren't mentioned in the OP proposal, like number of employees? Here's the recap: If business owner wants to open a retail store or a service store like a repair shop or dry cleaner where cleaning is done off-premise he has to get a special exception. But if he wants to open a food market, all he needs are permits. There would be no notice to the ANC or residents. No parking requirement, loading requirement, or limit on number of employees. R4 neighborhoods in Ward 1 have to decide if you want by right corner food stores and if you want any of the types of corner stores the Office of Planning is proposing be allowed by special exception. do you want the ground floor of housing converted for this purpose? Would this range of stores be a benefit to your neighborhoods?

Institutional Uses in R4 and R5

Existing Regulation

- Special Exception
- Organization created to improve social and economic well-being of neighborhood residents
- Not organized for profit
- No structural changes allowed

Proposed Regulation

- Special Exception
- Organized for social welfare of neighborhood residents
- Not organized for profit
- Can charge a fee for service
- Less than 50% of square can be filled with institutional, churches, and schools
- Private Clubs become institutional and no longer by right

Apartment Zones

- Same as Proposed with exception of concentration limits

These not for profit, social welfare organizations are currently called community service organizations and examples are job training programs, family counseling programs, and consumer cooperatives. The new code would call them institutional uses, which is a big tent that includes private clubs and libraries, social welfare groups and non-profits. The intention of this proposal seems to be to continue the community service organization use in R4 neighborhoods but to somewhat limit how many could be grouped in proximity to churches and schools. One of the big changes would be allowing structural changes to a house and permitting fees to be charged. Private clubs, which are allowed now in R4 neighborhoods, would in the future need a special exceptional. So by virtue of joining this larger category called institutional use private clubs would no longer be able to locate by right in residential flat neighborhoods.

Community service organizations in apartment zones would be subject to the same proposed regulations, with the exception of the limitation on concentrating this use with churches and schools. That limit would not apply in apartment zones.

Office Uses in R4 and R5

Existing Regulation for R4 and R5 Zones

- Special exception
- Non-profit office use
- 10,000 sf house in historic district or landmarked
- Additions reviewed/approved by HPRB & BZA

Proposed Regulation

- No changes, for RF zones
- May no longer be allowed in R5 zones

The confusion about what the office proposal is in R5 zones is because the table that lists special exceptions for the apartment zone, which is what R5 will become, includes office. The text provisions do not include any reference to a special exception for office uses. So either OP has eliminated the current allowance for office use in apartment zones or it forgot to put in the text. I have heard that allowing apt bldg in the Dupont Circle historic district to be converted to office uses resulted in the loss of significant amounts of housing and that may partly explain why that allowance is being removed.

Parking

Existing Regulation

- One family/ one on site parking space
- Flats/ one space for 2 flats
- Apartment buildings/ R5B one space per 2 units; R5E one space per 4 units
- Church/ one space for every 10 seats
- Office/ in excess of 2000 sf, one space per additional 600 sf
- Medical or dental office/ same as office, but 2X if occupy more than 25% of building
- Retail or Service/ in excess of 3000sf, one space per additional 300 sf

Proposed Regulation

- One family/none unless abut alley, then one space
- Flats/ one space for every 2 flats
- Apartments buildings/ in excess of 4 units, one space for every 3 units
- Church/ in excess of 5000 sf, 1.66 spaces per additional 1000 sf
- Office/ in excess of 3000 sf, 0.5 spaces per additional 600 sf
- Medical or dental office/ same as office
- Retail or Service/ in excess of 3000 sf, 1.33 spaces per 1000 sf

This is a crowded slide, but I wanted you to see a side by side comparison. The changes in minimum parking requirements, which have gotten a lot of attention, are focused on apt and commercial buildings primarily. For apartment buildings our current sliding scale that reduces the parking requirement as the number of units in a building goes up would be replaced with a one size fits all formula. In an R5B zone, which you have in Adams Morgan, the current requirement for a 20 unit building would be 10 spaces and per the new formula that would drop to 5 spaces. In an R5E zone in Mt. Pleasant, for example, a 30-unit building currently is required to have 8 spaces and under the proposal that building would have 9 spaces. But in all the R5 apartment zones the number of spaces would be reduced by 50% if the building was within ¼ mile of frequent bus route or ½ mile from a metro station. The 20 unit building would go from 10 spaces currently to 5 spaces under proposal and the potential of only 3 spaces if near metro station or high volume bus line. As you can see parking for offices would also go down. A 40,000sf office bldg would be required to provide 93 spaces now, 46 spaces per the proposal and 23 spaces if near metro or major bus line. Medical and dental offices would be treated the same as office per the proposal whereas now if that use is more than an incidental share of the building the parking requirement goes up. For a 20,000sf retail space the parking requirement goes from 57 spaces currently to 23 spaces per the new formula and potentially only 12 spaces if near metro and high volume bus line. What C100 has recommended is retention of the current special exception process for reducing parking requirement for non-residential uses and the introduction of the same process to reduce residential parking requirements. It makes no sense to us to have a cookie cutter formula that is not based on neighborhood needs and concerns. There may be a high demand for street parking and adding renters' cars or shoppers' cars may make a bad situation worse. Or conversely, maybe there is an abundance of street parking and the minimum requirement should be reduced. The council in its wisdom said in the Comprehensive Plan that parking reductions near metro should be studied with the participation of ANCs and community groups, but that the most likely candidates for reductions would be metro station areas where the metro is under utilized and where economic development is needed. Instead what has been proposed is not the result of a study and it applies reductions across the board, including areas where metro is well used and residents tend to own cars.

This is the end of the power point presentation. I hope its been helpful and I encourage you to find out more about these topics and others that we didn't have time to cover today. Now I will turn it over to Alma Gates for questions.

