D.C.-44
APRIL 1980

Memorandum • Government of the District of Columbia

TO: D.C. Zoning Commission

Department, Agency, Office: Planning

FROM: Fred L. Greene, Director
Office of Planning

Date: FEB 24 1987

SUBJECT: Bed and Breakfast Text for Advertising

Attached is a revised draft of the proposed text for Home Occupations, incorporating bed and breakfast establishments as a permitted home occupation subject to specified restrictions. This text is found in Paragraph 3101.53(p). Minor changes are also suggested, and are shown, to Paragraphs 3101.51(a, g) and 3101.53(e).

Attachment

1987 FEB 25 AM 9:49
ZONING SECRETARIAT,
DISTRICT OF COLUMBIA

2003 SEP -5 PM 2:18
RECEIVED
D.C. OFFICE OF ZONING

ZONING COMMISSION
CASE No. 86-29
EXHIBIT No. 10

BZA
Case No. 17079
Exhibit No. 14

Board of Zoning Adjustment
District of Columbia
CASE NO. 17079
EXHIBIT NO. 14

3101.5 Home Occupations

3101.51 The purpose of the home occupation provisions is to permit home occupations as accessory uses, provided that they are compatible with the neighborhood in which they are located. The intent is to protect residential areas from adverse effects of activities associated with home occupations while permitting residents of the community the opportunity to use the home as a workplace and source of livelihood under restrictive conditions. A home occupation is any gainful occupation or profession engaged in by an occupant of a dwelling unit which meets the following conditions and requirements:

a. A home occupation shall be incidental to the use of a dwelling unit for residential purposes. No more than 40% of the floor area of the dwelling unit may be used in connection with a home occupation, including any space used for storage of materials and products. Floor area of a dwelling unit, in this case, shall include the floor area of all heated and ventilated and thereby habitable rooms and areas within the dwelling unit, including basements and habitable attic space. No more than 300 s.f. of an accessory building may be utilized and shall be counted, if utilized, in the base floor area and the maximum percentage of floor area permitted.

b. No person other than a resident of the dwelling unit shall be engaged nor employed in the home occupation, and the number of residents employed on premises shall not exceed two.

c. No alteration of the residential appearance of the premises shall occur, including creation of a separate entrance to the dwelling or utilization of an existing entrance exclusively for the business.

d. There shall be no outside operations, storage, nor display of materials nor products.

e. The home occupation shall not displace nor impede use of required parking spaces, including any business storage in required garage parking areas.

f. No mechanical equipment is to be utilized except that which is necessarily, customarily, or ordinarily used for household or leisure purposes. No equipment nor process shall be used which creates visual or audible electrical interference in radio or television receivers off the premises or causes fluctuations in line voltage off the premises.

g. The use shall produce no noise, obnoxious odors, vibrations, glare, nor fumes detectable to normal sensory perception outside the structure.

h. Not more than two vehicles, and no commercially licensed vehicle, shall be utilized in the business.

i. Visitors, customers, or deliveries shall not exceed that normally and reasonably occurring for a residence; in any case not more than five business visitors per day and not more than two deliveries of products nor materials per week.

j. No sale of products (other than telephone sales) shall occur on the premises, except that two sale parties for the purpose of soliciting orders or sales may be held annually, each event not to exceed twenty persons on the premises.

k. The exterior of the premises may have only one, non-illuminated, flush-mounted sign, not exceeding 144 square inches in area and indicating only the name of the occupant and the type of occupation.

l. An applicant for a home occupation shall obtain an occupational license if required by District of Columbia Code.

3101.52 A home occupation is permitted only by means of a Home Occupation Permit or as a special exception approved by the Board of Zoning Adjustment. A Home Occupation Permit is a permit issued for a home occupation without a public hearing. Both types of permit granted by these provisions are granted to a designated person or persons residing at a residential address. No such permit is transferable from person to person nor from address to address.

3101.53 The following uses shall be allowed home occupations, provided that the conditions specified in Paragraph 3101.51 are met at the establishment of the home occupation and on a continuing basis, as authorized by a Home Occupation Permit.

a. Tutoring of not more than three students at any one time, except that tutoring of music students shall be limited to one at a time, without amplification of instruments, and solely within the main building.

b. Child Development Home.

c. A maximum of two roomers or boarders in the main building.

d. Dressmaking, sewing and tailoring.

e. Painting, sculpturing, writing, composing, or other fine arts occupations practiced by individuals in home studios, with the allowance that up to 60% of the floor area of the dwelling unit may be devoted to the studio.

f. Home crafts, such as model-making, rug weaving, lapidary work, and cabinet making.

g. Home cooking and preserving.

h. Caterer, provided that no more than two meals per week, serving no more than 20 persons each, shall be prepared on the premises and shall be served elsewhere.

i. Telephone answering service and telephone sales.

j. Computer programming.

k. Typing or word processing service.

l. Mail order business, provided that no retail sales occur on the site.

m. Home office of a professional person, scientist, clergyman, inventor, or academician, provided that consultations with clients, colleagues, employees, students or other affected persons do not occur on the premises.

n. Office of a salesman (including real estate agent) or manufacturer's representative, provided that no customers visit the premises and the only business transactions occurring on the premises are by telephone.

o. Office of a physician or dentist, with the allowance that one person not residing on the premises may be employed so long as that person is not a physician nor dentist.

p. Bed and Breakfast facility, offering rooms and breakfast to guests on a daily basis, provided that:

- Breakfast is the only meal served and is served only to overnight guests.

- The maximum number of sleeping rooms in the facility is two, except that by special exception pursuant to Paragraph 3101.55(b), the number of sleeping rooms may be increased to four.

- One parking space in addition to the required parking for the dwelling unit shall be provided for every two sleeping rooms.

- No cooking facilities shall be permitted in any of the rented rooms.

- The rooms shall be rented out less than 100 nights in a 12-month period, and no stay shall exceed 14 days.

3101.54 The following uses are considered inherently unsuited to be practiced as home occupations and are accordingly prohibited:

a. Any retail service or other use specified in Paragraphs 5101.32, 5101.33, 5102.32, 5102.33, 5103.32, 5103.33, 5104.32 and 6101.35; and

b. Any use prohibited in Subsection 4402.4.

3101.55 Home occupations not specifically permitted or prohibited above may be permitted as special exceptions by the Board of Zoning Adjustment, subject to the following:

a. The proposed use and conditions related to its operation and the premises shall comply with the requirements of Paragraph 3101.51.

b. An applicant for a home occupation which is specifically permitted by Paragraph 3101.52 may request of the Board a modification of no more than two of the conditions enumerated in Paragraph 3101.51 provided that the intent of the Home Occupation provisions is complied with. In no case shall more than one person who is not a resident of the premises be permitted as an employee of the home occupation, and that person shall not be a co-practitioner of the profession.

c. Any request to modify more than two of the requirements found in Paragraph 3101.51 shall be deemed a request for a use variance. However, persons with demonstrated physical handicaps may be permitted special consideration by the Board, and requests for more than two modifications of the Home Occupation requirements in this instance shall be considered as special exceptions governed by this Paragraph.

d. In considering requests for approval under this Paragraph, the Board may impose conditions relating to operating conditions of the home occupation, parking, screening, or other requirements as it shall deem necessary to protect adjacent and nearby properties consistent with the purposes of the Home Occupation provisions.

D.C. 446
APRIL 1980

Memorandum • Government of the District of Columbia

1986 NOV 28 PM 1:18

ZONING SECRETARIAT
DISTRICT OF COLUMBIA

TO: D.C. Zoning Commission Department, Agency, Office: Planning

FROM: Fred L. Greene, Director
Office of Planning Date: NOV 26 1986

SUBJECT: Zoning Commission Case No. 86-24, Bed and Breakfast Text Amendment, Preliminary Report

At its regular monthly meeting on November 3, 1986, the Zoning Commission initiated a case to address bed and breakfast text amendments. The Commission requested that the Office of Planning (OP) provide a report regarding bed and breakfast (B and B) facilities for the December 8, 1986 meeting.

This report is in response to the Commission's inquiry of OP on the following issues:

1. Status report of the actions of the Rental Accommodations Office and the Zoning Administrator regarding bed and breakfast facilities;

2. Potential of a stringent parking requirement approach to control bed and breakfast facilities;

3. An opinion as to whether the issue of bed and breakfast facilities should be removed from the broader review of residential uses; and

4. Objective planning data on bed and breakfast facilities that would evidence whether or not there is an emergency.

Summary Recommendation and Discussion

The Office of Planning (OP) recommends that the Zoning Commission consider the issue of bed and breakfast in advance of scheduled review of the broader issue of examining the residential use provisions of the Zoning Regulations.

EXHIBIT B

CASE No. 86-24
EXHIBIT No. 17

The OP has determined through its preliminary review of the issues which prompted this application that amendments to the Zoning Regulations are needed. Specifically, as is discussed further in this report, there have been several confirmed cases where housing accommodations (apartment houses, rooming and boarding houses) have been illegally converted to lodging facilities catering to transient guests and calling themselves bed and breakfast establishments. Moreover the Zoning Regulations are unclear as to the intended regulation of an industry defined as B and B.

Analysis

The OP in its review of this application found several reasons to question whether the Zoning Regulations adequately and accurately address the operational characteristics of a bed and breakfast as opposed to an inn (by definition) or other transient lodging accommodations.

Technically a bed and breakfast (B and B) is not defined or specifically regulated in the Zoning Regulations. In search of a definition for a B and B, the OP contacted the American Bed and Breakfast Association and the Bed and Breakfast League, Inc. (Materials from the American Planning Association also being sent.)

The American B and B Association defines this use as follows:

A. The use is called a Bed and Breakfast "home stay".

B. The use is a home occupation.

1. The use is conducted in a private home with three or fewer guest rooms.

2. The use is rented out less than 60 nights in a 12-month period.

3. It is the owner's personal residence and is used as his primary residence.

4. No signs are displayed on the property.

5. The dwelling is occupied by the owner at all times.

6. The only meal served to guests is breakfast.

7. It is not a full-time business to be sold to a new owner, but is a source of supplemental income.

8. There are no drop-in guests. All guests are by reservations, made in advance.

9. Only one family or party is accommodated at one time.

10. Guest stays are limited to less than 30 days. The Association indicates that its research shows the average stay is two days.

The Association expressed its support of a change in the Zoning Regulations that would differentiate between a B and B home stay and commercial lodging.

The Bed and Breakfast League, Inc. is a service organization providing reservation information for travelers wishing to stay at bed and breakfasts in Washington, D.C. and suburbs. The league advised OP that it represents 35 owner/resident operators in Maryland and the District.

All of these facilities are private single-family homes with owner occupancy. The majority of the B and B's that it represents have only one guest room. A few have two or three guest rooms. The League noted that none of the B and B's represented conversions from multi-family buildings, noting further that traditionally in Europe B and B's have operated for 400 to 500 years.

An important characteristic of a B and B in the League's opinion is that they are private single-family homes where the owner resides on the premises. The B and B offers overnight accommodations on an occasional basis and breakfast is included in the cost.

The Office of Planning would note that we have proposed text amendments to update our home occupation provisions. If B and B's were permitted without loss of residential units (home occupation only) and with restrictions similar to those above especially on number of bedrooms and number of nightly visits per year, OP would consider them compatible uses. However, this should be done only as a companion policy that prevents B and B's from utilizing rooming house, boarding house or apartment house Certificates of Occupancy. Larger B and B's in residential zones result in loss of residential units and potential adverse effects on nearby residences.

OP has read the letters submitted to the Zoning Commission as to the operational impacts being imposed on residential areas from the conversion of apartment houses, rooming and boarding housing to alleged B and B's without the proper Certificates of Occupancy and in violation of the Rental Accommodations Act. OP has compiled a list of these properties and has discussed this matter with the Zoning Administrator and the Office of Rental Accommodations in regard to said allegations.

D.C. Office of Rental Accommodations

The D.C. Office of Rental Accommodations (ORA) legal advisor informed the Office of Planning that the addresses listed below are being investigated for possible violation of the Rental Housing Act. These properties are allegedly operating as bed and breakfast facilities (defined as transient uses by ORA) or other transient housing use without the proper Certificate of Occupancy, and/or in contradiction to what they are registered as (apartment, rooming house, boarding house or other non-transient housing accommodation) with ORA. ORA advised OP that they have identified several addresses that are in clear violation of the Rental Housing Act which prohibits the conversion of rental housing to transient use if the rental housing existing on or before May 20, 1980. ORA expects that its investigation will be completed in mid-December at which time a decision will be made on litigation proceedings against properties in violation of the Rental Housing Act. A copy of the Rental Housing Act (Chapter 38) is attached to this report.

800 4th Street, N.W.
1121 New Hampshire Avenue, N.W.
4000 Massachusetts Avenue, N.W.
4200 Massachusetts Avenue, N.W.
1824 Riggs Place, N.W.
4115 Wisconsin Avenue, N.W.
2700 Cathedral Avenue, N.W.
1829 Kalorama Road, N.W.
1620 T Street, N.W.
1736 1744, 1746, 1747, 1748 and 1777 Lanier Place, N.W.
1831, 1852 1854 and 1859 Mintwood Place, N.W.

The following addresses have been identified by neighborhood groups and others as being operated illegally as bed and breakfast facilities. The addresses followed by an asterisk are presently being investigated by the D.C. Department of Consumer and Regulatory Affairs, Rental Accommodation Office for possible violation of the Rental Housing Act.

2700 Cathedral Avenue, N.W. (also known as: 2850 27th Street, N.W.)*
2612 Cathedral Avenue, N.W.
1744, 1746, 1747, 1748, 1777 Lanier Place, N.W.*
1829 Kalorama Road, N.W.*
1854 Kalorama Road, N.W.*
1620 T Street, N.W.*
1831, 1852, 1854 and 1859 Mintwood Place, N.W.*

Zoning Administrator

The Office of Planning has discussed the bed and breakfast issue with the Zoning Administrator. The Zoning Administrator expressed his opinion that a bed and breakfast is in many ways similar to an inn by the zoning definition and as such consideration should be given to including them in the definition for inn. The predominante distinction is the smaller size of the bed and breakfast. Both, however, cater to a transient clientele, and as such create a higher parking demand than residences.

The Zoning Administrator suggested that many of the illegal conversions from nontransient housing accommodation to a bed and breakfast (transient) occur because the Zoning Regulations do not strictly prohibit transient occupancy in the definitions of apartment house, boarding house, rooming house, and possibly other housing accommodations which lend themselves to conversion. The Administrator noted that his office is working with the Office of Rental Accommodations in the investigation of alleged illegal conversion to bed and breakfast facilities.

The following establishments are listed in the District Yellow pages under the heading of bed and breakfast. It should be noted that none of these establishments are recognized by the B and B industry as meeting its definition of a B and B.

1. Kalorama Guest House (22 rooms) 667-6369
   1854 Mintwood Place, N.W.
   Square 2550, Lot 153 (R-5-B) circa 1910

2. Meg's International Guest 387-9623
   1315 Euclid Street, N.W.
   Square 2861, Lot 25 (R-4) circa 1895

3. Pineapple Gate Garden 342-1182
   3046 N Street, N.W.
   Square 1209, Lot 854 (R-3) circa 1887

4. Bed and Breakfast Accommodations, Inc. 363-8909
3222 Davenport Street, N.W.
Square 2037, Lot 21 (R-1-A) circa 1955

Reservation service for travelers wishing to stay in bed and breakfast.

5. Castletone Inn 483-4706
1918 17th Street, N.W.
Square 151, Lot 196 (R-5-B) circa 1900

Existing Zoning Regulations

The closest thing to a provision that could apply to a B and B under the Zoning Regulations would be Paragraph 3101.54 "Home Occupation" and vaguely Paragraph 3101.53 which allows a single family dwelling in the R-1-A District to have "a maximum of two roomers or boarders in the main building" as a matter-of-right.

As noted above the Zoning Regulations do not refer to the number of rooms, but to the maximum number of people.

The parking requirement is not increased beyond the one per dwelling unit provision for the principal residence.

Existing Zoning Definitions

Section 1201 of the Zoning Regulations defines the following terms as follows:

> "Boarding House: A building or part thereof other than a motel, hotel or private club where, for compensation, meals, or lodging and meals are provided for three or more guests on a weekly or monthly basis".
>
> "Rooming House: A building or part thereof, other than a motel, hotel, or private club, which provides sleeping accommodations for three or more persons who are not members of the immediate family of the operator or manager, and such accommodations are not under the exclusive control of the occupants thereof".
>
> "Rooming Unit: One or more habitable rooms forming a single habitable unit used or intended to be used for living or sleeping purposes, but not for the preparation of meals. The term rooming unit shall not include a tenement or bachelor apartment".

"Hotel: A building or part thereof in which not less than 30 habitable rooms or suites are reserved exclusively for transient guests who rent such rooms or suites on a daily basis and where meals, prepared in a kitchen or on the premises by the management or a concessionaire of the management may be eaten in a dining room accommodating simultaneously not less than thirty persons. Such dining room shall be internally accessible from the lobby. The term hotel shall not be interpreted to include apartment house or private club. It shall, however, include establishments defined as motel in these Regulations prior to May 16, 1980".

"Inn: A building or part thereof wherein habitable rooms or suites are reserved exclusively for transient guests who rent such rooms or suites on a daily basis. Guest rooms or suites may include kitchens, but central dining other than continental breakfast for guests is not allowed. Commercial adjuncts, function rooms, and exhibit space as permitted in hotels are not allowed. The term inn shall not be interpreted to include motel, hotel, private club or apartment house".

"Apartment house: Any building or part thereof in which there are three or more apartments or three or more apartments and one or more bachelor apartments".

Recommendation

As to the issue of whether an emergency exists pertaining to the establishment of B and B's, OP is of the opinion that the number of allegedly illegal conversions of rental housing to commercial transient lodging facilities is a serious situation, but not an emergency because of the substance of the Rental Housing Act and the enforcement actions now being undertaken by ORA. Loss of low and moderate income housing and the increased parking demand on the City's public streets are serious issues which need to be addressed by amendments to the Zoning Regulations.

A. The Commission is recommended to consider a definition of transiency and/or related amendments which would prohibit transient occupancy of apartment houses, boarding houses and rooming houses. This is a complex issue. OP will review previous suggested definitions from Case 79-1 (Hotels).

B. Consider adding B and B to the home occupations list of permitted uses with strict controls based on the standards of the Bed and Breakfast League, Inc.

C. Consider adding Bed and Breakfast as a defined term as a means of permitting it with suitable controls (parking, etc.) in zones which allow transient uses (SP as Special Exception, C-1 and subsequent zones as of right).

Report Prepared by:
OP/PS
RN:em:mas

NUMBER OF BEDROOMS

ZONING	1	2	3	4	5	6
R-1	5	8	2	-	-	-
R-2	5	2	1	-	-	-
R-3	5	1	-	1	-	-
R-4	11	3	2	1	2	-
R-5	11	5	2	2	2	1
C	3	1	-	-	-	-
UR	2	-	-	-	-	-
TOTAL	42	20	7	4	4	1

EXHIBIT C