

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING



Office of the Director

FINAL REPORT

DATE: June 17, 2005
TO: District of Columbia Zoning Commission
FROM: Ellen McCarthy, Interim Director OP
SUBJECT: Final Report for Zoning Commission Case No. 05-02
Residential Recreation Space Text Amendment

Case No. 05-02
Exhibit No. 4

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I. APPLICATION-IN-BRIEF

Applicant: District of Columbia Office of Planning
Location: All properties within the District zoned SP, C or CR.
Proposal: A text amendment to the Zoning Regulations to:
(a) Establish a special exception review process for the provision of relief to residential recreation space requirements in the SP, C and CR zone districts; and
(b) Amend existing residential recreation space requirements to provide additional clarity and consistency.

II. RECOMMENDED ACTION

In keeping with ongoing efforts to update and clarify Zoning Regulations, the DC Office of Planning recommends that the Zoning Commission approve proposed zoning text amendments to the following provisions of DCMR 11:

- roof-top structure requirements of Chapter 4, Section 411 to allow incidental and accessory roof-top enclosed area for residential recreation space;
- residential recreation space provisions of Chapters 5 (Special Purpose District - SP), 6 (Mixed Use Commercial Residential District - CR), and 7 (Commercial District - C) to add clarity and consistency, to reduce the minimum dimension for roof-top recreation space from 25' to 8', and to establish a special exception process and review guidelines for residential recreation space; and
- Board of Zoning Adjustment Rules of Practice and Procedure provisions of Chapter 31 to add a special exception process for relief from residential recreation space requirements

The Office of Planning is not proposing any changes from the advertised text amendment.

III. EXECUTIVE SUMMARY

Problems associated with the successful provision of required residential space have been identified. To address these, OP is proposing text amendments to the relevant zones as an interim measure to provide some measure of consistency and ease of use and to establish a special exception process for relief from regulations at this time. A more comprehensive review of residential recreation space requirements is anticipated following an ongoing analysis of open space and recreation opportunities and needs in the

District. This report provides additional analysis of the OP recommendations, which are unchanged from the original OP set-down report.

IV. BACKGROUND

At its March 14, 2005 public meeting, the Zoning Commission voted to set down for consideration a proposal to amend the zoning regulations pertaining to the provision of recreation space for residential developments within the commercial (C and CR) and special purpose (SP) districts (there is no equivalent requirement in the residential zones). These requirements were added to the zoning regulations in the 1970's, with the apparent intent to insure that residents within these higher density commercial zoned areas were provided with opportunities for both indoor and outdoor physical recreation. The required amount of such space varies from 5 to 20 percent of the total gross residential floor area, depending on the zone.

Providing residential recreation space within the building can have many direct and indirect impacts on quality of life. If the space is extensively used, it can add to the physical and social well-being of residents and provide an improved sense of satisfaction with living conditions in the city. However, such space can be a financial drain on residents of the building, since construction and maintenance of this space adds to the cost of each unit through sale costs, condo fees and rental fees, and can limit opportunities for neighborhood interaction and the successful establishment of local businesses.

The residential recreation space provisions have proven difficult to conform to in recent development proposals, leading to requests from the Zoning Commission, the BZA, and the public to review and amend these regulations to be more in line with current standards and expectations. The Zoning Commission first addressed the problems associated with providing this space in 2001 with an amendment to reduce the requirement to 5% within the Downtown District (DD) Overlay (Zoning Commission Order 943) because:

- the 15% recreation space requirement within the DD/C-2-C and DD/C-3-C Districts was considered unduly burdensome when compared to the 5% requirement within the DD/C-4 and DD/C-5 Districts;
- public recreational, cultural, entertainment, and retail opportunities are available in the Downtown area,
- recreation space on the inside of buildings could reduce Downtown vibrancy and safety ("eyes on the street"), particularly if ground floor recreation space limited retail development within the building;
- this resulted in a reduction in number of dwelling units that could otherwise be built on a site; and
- providing open space was prohibitively expensive due to high land costs in the Downtown.

A reduction to the required amount, also to 5 %, was also approved as part of the Southeast Federal Center (SEFC) Overlay District for similar reasons, as well as because of the provision of a major new waterfront park by the master developer of that site

Prior to setdown, OP also identified 29 requests since 2001 to vary the regulations for specific development projects, all of which were approved by the BZA. Without these variances, 10 acres of recreation space would have been required for these 29 projects, an area equivalent to about 400 residential units. The most common reasons cited by applicants for the relief included the presence of other neighborhood amenities such as parks, museums, restaurants, retail, etc; small or oddly shaped lots leading to layout constraints; adaptive reuse of an existing building, particularly historic structures;

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provision of private outdoor area such as balconies; code or regulations issues related to roof egress; and loss of residential units. Applicants also regularly noted that development in areas zoned to require residential recreation space, such as downtown and along major corridors, often targets a demographic of single professionals, couples, and empty nesters, for whom internal recreation space is not a priority. Rather, such users tend to value proximity to a wide range of shared social and recreation opportunities ranging from museums and parks to restaurants and gyms along active, urbane streetscapes.

The District Department of Parks and Recreations (DPR) and OP have, along with the National Capital Planning Commission (NCPD) and the National Parks Service (NPS) initiated an assessment of park and recreation space needs and provision throughout the District. It is anticipated that the study will commence in the fall, with a one-year completion schedule so that it can inform the Comprehensive Plan Review process. A complete review of residential recreation space requirements is anticipated following completion of that study. OP is proposing an interim measure at this time, to provide some measure of consistency and ease of use and to establish a special exception process for relief from regulations. OP is not at this time proposing changes to the amount of recreation space required.

V. CONTEXT / EXISTING REQUIREMENTS – refer also to Map Appendices I and II

As shown on the Appendix I map, SP, CR and C zones are found throughout the city, although they are concentrated in the downtown and along major traffic corridors. Each of these zones has a recreation space requirement, although it varies from a low of 5% to a high of 20% of gross residential area, as shown on Appendix II map. The following chart summarizes current requirements:

Chart I – Recreation Space Requirement (all land areas are approximate)				
applicable zone	requirement	total developable area		% of total developable area
		sq.ft.	acres	
C-1, C-2-A	20%	28,475,000	653	32.0%
C-2-B, C-2-C, C-3-A, CR	15%	20,240,000	465	22.8%
C-3-B, C-3-C, SP-1, SP-2	10%	26,480,000	608	29.8%
DD/C-2-A, DD/C-2-C, DD/C-3-A, DD/C-3-C, C-4, DD/C-5, SEFC/CR	5%	13,690,000	314	15.4%
TOTAL		88,885,000	2,040	100.0%
DISTRICT (total land area):			39,296	

Although these zones account for only about 5% of the total land area of the District, they represent many of the areas in which development is both likely and desirable. 85% is in the Commercial (C) zones, with almost 1/3 within the relatively low-density C-1 and C-2-A zones which are generally located along major corridors. A significant amount of this land, especially in the lower density commercial zones outside the downtown, is either undeveloped or underdeveloped. Additional residential density is permitted and increasingly desirable, in areas where the District is encouraging improved streetscape, safety, business development, and vibrancy. The District is also experiencing some conversion of existing downtown space from commercial to residential use, for which the residential recreation space must be provided.

VI. PROPOSAL IN BRIEF – refer also to Attachments III and IV

OP has recommended an interim measure with relatively minor amendments to the residential recreation regulations to alleviate some of the major difficulties associated with their practical application. Central

to this is the establishment of Special Exception relief from these regulations to augment the current variance process, including a set of review criteria based on

- type and location of proposed recreation space;
- provision of private outdoor space such as balconies (as applicable);
- compliance with other specific overlay requirements for arts or retail space within the building,
- presence of neighborhood park and recreation facilities, for which DPR comment on potential impact of the development would be required, and
- site or building constraints such as size, ADA or code requirements, conversion, or historic factors.

Other recommended changes include:

1. Reduction of the rooftop recreation dimension requirement from 25 feet to 8 feet (addressed further in Section VII of this report)
2. An amendment to Section 411.1 (Roof Structures) to permit penthouses for storage and washrooms for all forms of rooftop recreation space (whether required by zoning regulation or not), not just swimming pools as is currently the case. This would provide desired flexibility for the provision of normally anticipated and functional accessory spaces associated with rooftop leisure and recreation space. Such space would be subject to all other normally applied regulations pertaining to rooftop enclosures, including height, setback, and maximum area.
3. A number of relatively minor changes to add consistency between the wording of the various zones for which recreation space is required.
4. A number of wording clarifications and reordering of clauses, which do not substantively change the regulations, are proposed to add clarity and provide for more consistency between zones

OP's recommended amendments are shown highlighted in Attachment III, in which additions are marked in underlined text and deletions in ~~strike-through text~~. A brief description of changes is included, and where the change is simply a reordering, the existing Section number is noted. For ease of reference, a consolidated version is also included as Attachment IV.

VII. CONSULTATION

Prior to set-down, OP contacted a number of area architects, builders, and land use lawyers who have direct experience with these requirements, and held a workshop meeting October 22, 2004, at which District Staff from DPR and the Office of the Attorney General also attended. Many of the issues and problems faced in meeting these requirements were discussed, as summarized in OP's February 14, 2005 report. Participants made a number of suggestions for amendments to the regulations, many of which were incorporated into the proposed text as advertised. Other suggestions (such as reducing the required amount) were considered premature pending completion of the District wide open space / recreation needs study.

Subsequent to set-down, OP solicited additional feedback from the workshop participants. OP received limited additional input. One participant reiterated the problems associated with providing outdoor space, that much of the ground level is utilized by parking or loading access, private outdoor space, and the building footprint making the provision of ground level recreation space accessible to all residents

difficult to provide. This difficulty is compounded by the requirement for outdoor recreation space, especially in the CR zone where 70% of the recreation space is required to be outdoors.

The participant raised a second issue, with regards to the provision of covered (although not necessarily enclosed) space for roof-top decks, to provide shade and extend the safe enjoyment of this space. Currently, pergolas or other permanent roof-top coverings would have to meet both height and Height Act limits, and would count in the zoning regulation FAR allowance for roof structures (37%, as per §411.7).

VIII. ZONING COMMISSION COMMENTS AT SET DOWN

At the March 14, 2005 meeting at which the Zoning Commission decided to set this proposal down for a public hearing, the Commission raised two specific issues for clarification and advertising in the alternative

1. Discrepancy between the CR Zone and the SP and C Zones

A summary comparison of the existing relevant sections that differ between the zones follows, with key differences highlighted:

Regulation	CR	SP / C
Amount required	15%	10% (SP); 5 – 20% (C)
Location	<i>Private</i> residential recreation space may be located at ground level, on or above the residential plane, on rooftops, or within the building or structure ... (§635.2)	Residential recreation space may be located at ground level, on or above the residential plane, on rooftops, or within a building or other structure. (§§533.5 / 773.4)
Private Balconies	<i>Silent</i>	The area of a balcony shall not be counted to satisfy the residential recreation space requirement of a building where the balcony, or portion of it, adjoins an individual residential unit and is accessible only from that unit. (§§533.6 / 773.5)
Outdoor Space Required:	provided, that <i>seventy percent</i> (70%) of the total of this space shall be open to the sky. (§635.2)	533.9 No less than <i>fifty percent</i> (50%) of the total residential recreation space shall be outdoors. (§§533.9 / 773.8)
Accessibility.	<i>Private</i> residential recreation space shall be that space suitably equipped and devoted to active or passive recreation for the residents of a particular residential building or structure. (§635.1)	Residential recreation space shall be <i>physically accessible to all</i> residents of the building served by that space (§§533.10 / 773.9)

While the wording is somewhat ambiguous, the CR zone is currently interpreted as allowing the inclusion of “private” outdoor balcony space in meeting recreation space requirements, whereas the other C and SP zones do not. However, the CR zone also requires a larger amount of the recreation space to be outdoors (70% vs. 50%).

Amending this regulation to allow private outdoor space to be included in required recreation space could have serious impacts on overall development patterns, positive and negative. On the plus side, it would make conformance to the requirement easier, and would encourage the provision of balconies, with the associated impacts on resident satisfaction and amenity, since balconies are normally a desired feature, and building articulation. However, required setbacks are measured to the outside face of the building, including any balconies. The provision of balconies could reduce the building footprint, due to setback requirements, encouraging either greater height, or reduced building step-back articulation. Conversely, encouraging balconies could result in increased setback variance or public space encroachment requests. It could also lead to more space being provided as "private" outdoor space for some residents, at the expense of residents for which a balcony cannot be provided.

As such, OP is not recommending that the C and SP zones be amended to correspond to the CR zone at this time. Likewise, OP does not recommend changes to the CR zone to correspond to the other zones, as this could be seen to represent a new restriction on development in that zone. However, bringing the requirements into conformance between zones will be an important aspect of the more comprehensive recreation space amendment initiative following completion of the OP / DPR / NCPC / NPS study.

- 2 Recommended decrease in the required width for roof-top recreation space from 25 feet to 8 feet minimum.

Commission members questioned the OP proposed reduction in the required width for rooftop recreation space from 25 feet to 8 feet. In particular, Commission members questioned why the width would not be 18.5 feet, to correspond to the normal setback requirement for rooftop penthouse space (1' setback for every 1' of penthouse height for which a maximum of 18.5' is established).

OP proposed this amendment in response to repeated concerns raised by designers and builders that this requirement was very difficult to meet, particularly on small / narrow lots, given the need for roof-top mechanical and access space. In addition, there is no minimum width requirement for indoor recreation space, and it is very possible to use spaces much more narrow than 25 feet for a variety of both passive and active recreation purposes. OP elected to propose a reduction to 8 feet, as this is a typically accepted comfortable width for a habitable room, and would allow the placement of deck furniture without impeding movement and safety of people utilizing the rooftop space. OP does not believe there is a direct correlation between this regulation and the penthouse setback requirement because the penthouse is often lower than the 18.5 foot maximum permitted resulting in a correspondingly smaller setback, and other rooftop needs, such as ventilation shafts, often also occupy portions of the setback area.

IX. COMPREHENSIVE PLAN

As noted in the February 14, 2005 report, the proposal would not amend permitted land use patterns or permitted density, so would not have a significant impact on Comprehensive Plan goals and objectives. However, by encouraging the provision of more housing and more effective recreation space, the proposal could further the following major themes of the Comprehensive Plan, as outlined and detailed in **Chapter 1 - General Provisions Element**:

101.1 (a) Stabilizing and improving the District's neighborhoods

- (c) *Developing a living downtown*
- (d) *Preserving and promoting cultural and natural amenities.*
- (e) *Respecting and improving the physical character of the District*
- (f) *Preserving and ensuring community input*
- (g) *Preserving the historic character of the District,*
- (i) *Promoting enhanced public safety*

The proposal also indirectly supports a number of Comprehensive Plan objectives related to the provision of housing, historic preservation, and land use.

X. AGENCY REFERRALS – refer to Attachment V

In addition to the normal Office of Zoning referral, OP requested input and comments from a number of District government agencies

The Department of Parks and Recreation (DPR) was involved in establishing the parameters for the original proposal, and has indicated support for the proposal throughout the process. The Department of Employment Services essentially notes no concern with the proposal. The Department of Housing and Community Development (DHCD) notes support for the proposal. The Office of the Attorney General (OAG) was also involved in the drafting of the proposed amendments

XI. ANC / COMMUNITY REVIEW

OP did not receive any requests to present the proposal to any ANC, and did not receive any comments from any ANC, or other community group or individual

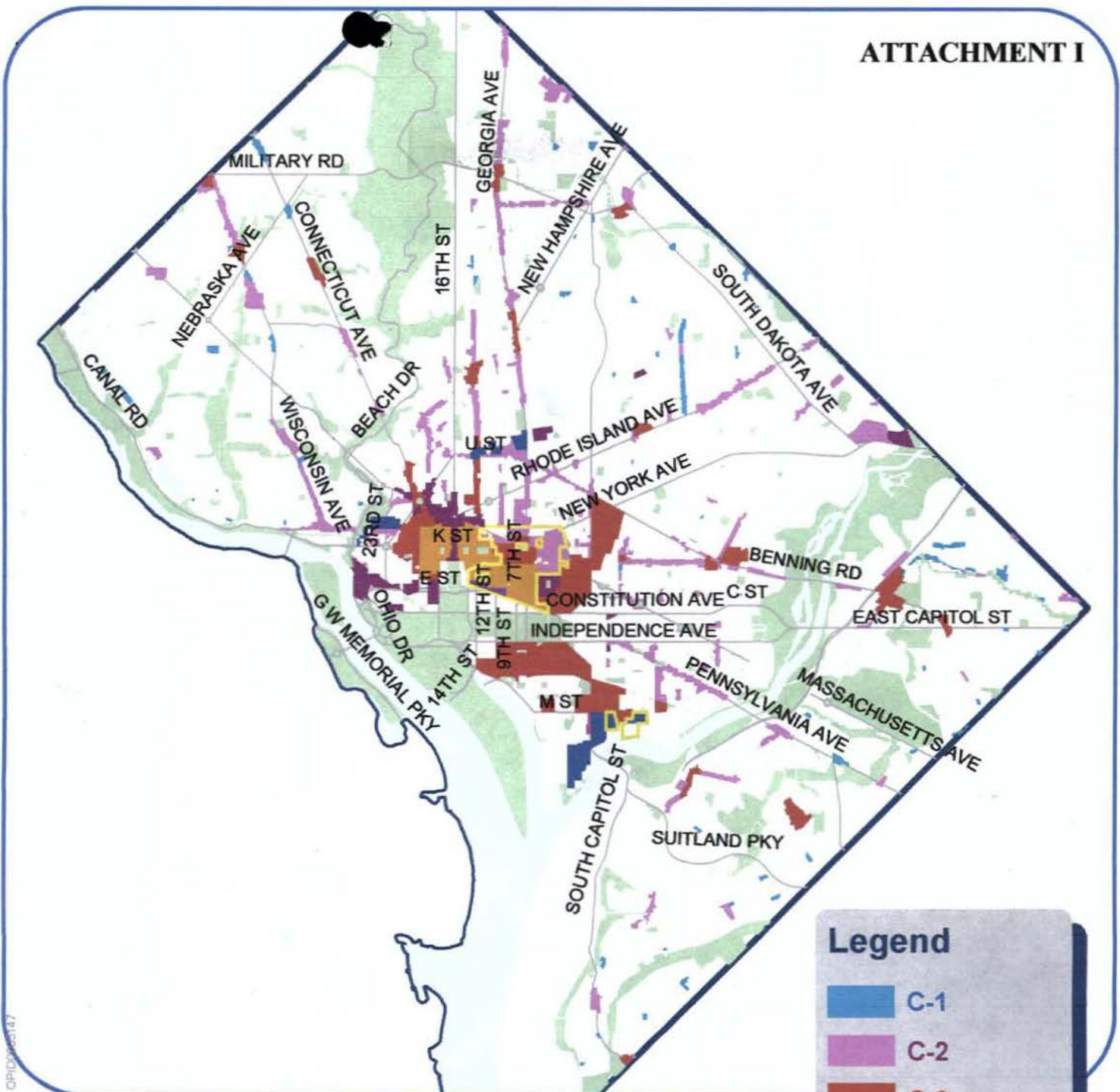
XII. SUMMARY AND RECOMMENDATION

The Office of Planning recommends that the Zoning Commission approve the amendment to the zoning regulations residential recreation space requirements. This recommendation is in keeping with Comprehensive Plan objectives, and with broad District goals and objectives related to encouraging housing and streamlining processes while providing opportunities for community input.

EM/jl

ATTACHMENTS:

- I Map showing SP, C and CR zone districts
- II Map showing areas where residential recreation space is required, by amount required
- III OP recommended text amendment
- IV OP recommended text amendment, consolidated for ease of reference
- V Agency Comments



Zones with Residential Recreation Space Requirement

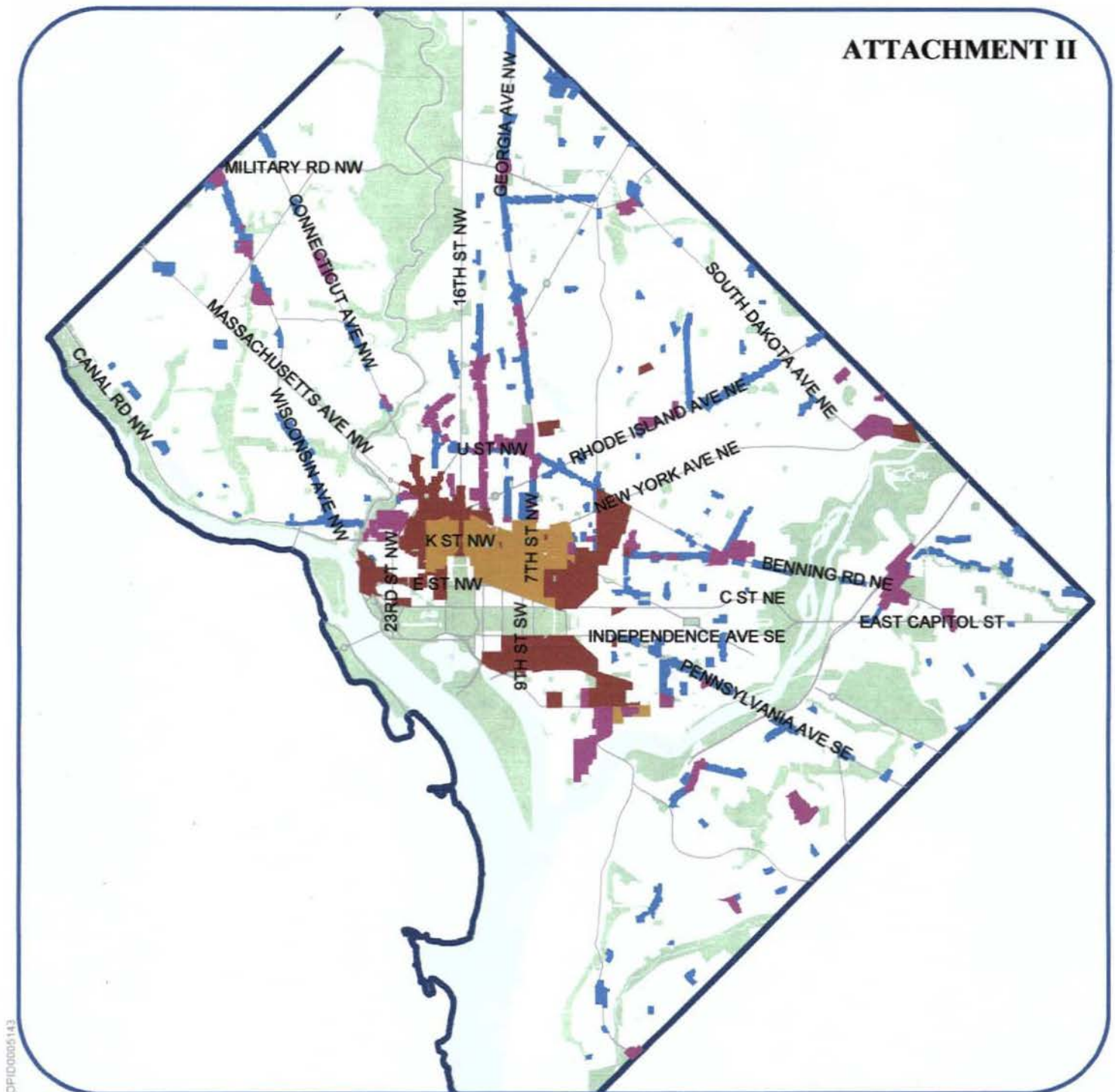
★ ★ ★ Government of the
District of Columbia
Anthony A. Williams, Mayor

Office of Planning ~ February, 2005

This map was created for planning purposes from a variety of sources. It is neither a survey nor a legal document. Information provided by other agencies should be verified with them where appropriate.

Legend

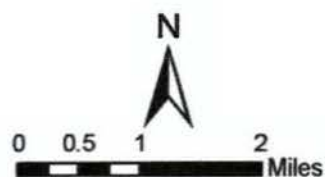
- C-1
- C-2
- C-3
- C-4
- C-5
- CR ZONING
- SP ZONING
- DD Overlay
- SEFC Overlay
- Parks



Residential Recreation Space Zone Requirements

★ ★ ★ Government of the
District of Columbia
Anthony A. Williams, Mayor

Office of Planning ~ February, 2005
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Legend

- 20 Percent Required
- 15 Percent Required
- 10 Percent Required
- 5 Percent Required
- Parks
- Water

Regulation	Current #	Change
CHAPTER 4 RESIDENCE DISTRICTS: HEIGHT, AREA, AND DENSITY REGULATIONS		
411 ROOF STRUCTURES (R)		
411.1 To exercise a reasonable degree of architectural control upon roof structures in all districts, housing for mechanical equipment, stairway and elevator penthouses, and, when not in conflict with An Act To Regulate the Height of Buildings in the District of Columbia, approved June 10, 1910 (36 Stat 452, as amended, D.C. Code, 2001 Ed §§ 6-601.01 to 6-601.09 (formerly codified at D.C. Code §§ 5-401 to 5-409 (1994 Repl. & 1999 Supp.))), penthouses for storage and toilets incidental and accessory to roof swimming pools <u>or other recreation space</u> shall be subject to conditions and variable floor area ratio credit specified in this section.	411.1	<i>To allow incidental and accessory enclosed space associated with rooftop recreation space</i>
CHAPTER 5 SPECIAL PURPOSE (SP)		
533 RESIDENTIAL RECREATION SPACE (SP)		
533.1 When all or a portion of a building in an SP District is devoted to a residential use other than a <u>one-family dwelling, flat, or hotel, residential</u> recreation space shall be provided	533.1	<i>Clarify that it is not required for a SFD or flat; make wording consistent</i>
533.2 An area equal to not less than ten percent (10%) of the gross floor area devoted to residential use shall be provided as residential recreation space, in accordance with the provisions of §§ 533.3 through 533.10.	533.3 and 533.4	<i>Amount unchanged; moved and numbering corrected</i>
533.3 Residential recreation space may be located at ground level, on or above the residential plane, on rooftops, or within a building or ~~other~~ structure	533.5	<i>Minor wording change for consistency</i>
533.4 No less than fifty percent (50%) of the total residential recreation space shall be outdoors.	533.9	<i>Unchanged</i>
533.5 The recreation space shall be ~~safe, secure, and~~ equipped or landscaped for the active or passive recreation use of the residents	533.2	<i>Removal of Building Code issues</i>
533.6 The area of a balcony shall not be counted to satisfy the residential recreation space requirement of a building where the balcony, or portion of it, adjoins an individual residential unit and is accessible only from that unit.	533.6	<i>Unchanged</i>
533.7 Rooftops that contain recreation space may have a parapet wall not to exceed five feet (5 ft) in height.	533.7	<i>Unchanged</i>
533.8 ~~If a~~ Any portion of a roof is to be used for residential recreation space, ~~the roof area~~ shall have no dimension less than ~~twenty-five~~ <u>eight (8)</u> feet (25 ft.).	533.8	<i>Reworded for clarity, and reduce width from 25 to 8 feet minimum</i>
533.9 Residential recreation space shall be physically accessible to all residents of the building served by that space	533.10	<i>Unchanged</i>

Regulation	Current #	Change
533.10 The floor area devoted to residential recreation space shall not be counted in determining the amount of off-street parking spaces or loading berths	533.11	Unchanged
<u>533.11 Reduction or elimination of the required residential recreation space shall be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, provided that the provisions of §§ 533.12 – 533.13 are satisfied.</u>	New	New special exception provision
<u>533.12 The Board shall give consideration to the following.</u>	New	BZA considerations
(a) <u>Nature and location of residential recreation space being provided on-site;</u>	New	Allows consideration of type of space itself
(b) <u>Presence of private outdoor space within the project, such as balconies, decks, or patios;</u>	New	Allows consideration of provision of private space
(c) <u>Nature and location of park and recreation opportunities in the immediate neighborhood. The impact of the project on neighborhood park and recreation facilities shall be found to be acceptable or capable of being mitigated;</u>	New	Allows consideration of neighborhood amenity levels
(d) <u>Overlay requirements for retail or arts space within the building; and</u>	New	Allows considering public use requirements of applicable overlays
(e) <u>Constraints associated with the building or site that limit the ability to provide residential recreation space within the building or on the site, including ADA or building code restrictions, the conversion of an existing building from another use, and historic structure or small or irregular lot constraints.</u>	New	Allows BZA to consider special site or building constraints
<u>533.13 Prior to taking hearing action on an application, the Board shall refer the application to the Office of Planning and the D.C. Department of Parks and Recreation for assessment of the impact of the proposal on park and recreation facilities within a half-mile radius of the project site.</u>	New	Required DPR review and assessment to assess potential impact and proposed mitigation
CHAPTER 6 MIXED USE COMMERCIAL RESIDENTIAL (CR)		
635 RESIDENTIAL RECREATION SPACE (CR)		
635.1 For the purposes of this section, the phrase “residential use” shall include dwellings, flats, multiple dwellings, rooming and boarding houses, and community-based residential facilities. When all or a portion of a building in a CR District is devoted to a residential use, private residential recreation space shall be provided.	635.4	Reworded for consistency
635.2 An area equal to not less than fifteen percent (15%) of the gross floor area devoted to residential ~~purposes~~ <u>use</u> shall be provided as private residential recreation space, <u>in accordance with the provisions of. §§ 635.3 through 635.8.</u>	635.3	Amount unchanged, reworded for consistency and clarity

Regulation	Current #	Change
635.3 Private residential recreation space may be located at ground level, on or above the residential plane, on rooftops, or within the building or structure.	635.2	<i>Split into two provisions for consistency</i>
635.4 <u>No less than</u> seventy percent (70%) of the total ~~of this space~~ <u>residential recreation space</u> shall be ~~open to the sky outdoors.~~	635.2	<i>Amount unchanged; reworded for consistency and clarity</i>
635.5 <u>The</u> private residential recreation space shall be ~~that space suitably safe, secure, and equipped and devoted to or landscaped for the active or passive recreation for use of the residents of a particular building or structure.~~	635.1	<i>Reworded for consistency</i>
635.6 <u>Rooftops that contain recreation space may have a parapet wall not to exceed five feet (5 ft.) in height.</u>	New	<i>Added for consistency</i>
635.7 <u>Any portion of a roof to be used for residential recreation space shall have no dimension less than eight (8) feet.</u>	New	<i>Added for consistency</i>
635.8 <u>The floor area devoted to residential recreation space shall not be counted in determining the amount of off-street parking spaces or loading berths.</u>	New	<i>Added for consistency</i>
635.9 <u>Reduction or elimination of the required private residential recreation space shall be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, provided that the provisions of §§ 635.10 – 635.11 are satisfied.</u>	New	<i>New special exception provision</i>
635.10 <u>The Board shall give consideration to the following.</u>	New	<i>BZA considerations</i>
(a) <u>Nature and location of residential recreation space being provided on-site;</u>	New	<i>Allows consideration of nature of space itself</i>
(b) <u>Nature and location of park and recreation opportunities in the immediate neighborhood. The impact of the project on neighborhood park and recreation facilities shall be found to be acceptable or capable of being mitigated;</u>	New	<i>Allows consideration of neighborhood amenity levels</i>
(c) <u>Overlay requirements for retail or arts space within the building; and</u>	New	<i>Allows consideration of public use requirements of applicable overlays</i>
(d) <u>Constraints associated with the building or site that limit the ability to provide residential recreation space within the building or on the site, including ADA or building code restrictions, the conversion of an existing building from another use, and historic structure or small or irregular lot constraints.</u>	New	<i>Allows BZA to consider special site or building constraints</i>
635.11 <u>Prior to taking hearing action on an application, the Board shall refer the application to the Office of Planning and the D.C. Department of Parks and Recreation for assessment of the impact of the proposal on park and recreation facilities within a half-mile radius of the project site.</u>	New	<i>Required DPR review and assessment to assess potential impact and proposed mitigation</i>

Regulation	Current #	Change										
CHAPTER 7 COMMERCIAL (C)												
773 RESIDENTIAL RECREATION SPACE (C)												
773 1 When all or a portion of a building in a C-1, C-2, C-3, C-4, or C-5 (PAD) District is devoted to a residential use other than a one-family dwelling, flat, or hotel, <u>residential</u> recreation space shall be provided.	773 1	Last clause separated and moved to 773.5 for consistency										
773 2 An area equal to not less than the following percentage of the gross floor area devoted to residential use shall be provided as residential recreation space <u>in accordance with the provisions of §§ 773.3 through 773.10:</u>	773.2 and 773 3	Combined for consistency, amount unchanged										
<table><tr><th>ZONE DISTRICT</th><th>MAXIMUM PERCENTAGE OF GROSS FLOOR AREA</th></tr><tr><td>C-1, C-2-A</td><td>20%</td></tr><tr><td>C-2-B, C-2-C, C-3-A</td><td>15%</td></tr><tr><td>C-3-B, C-3-C</td><td>10%</td></tr><tr><td>C-4, C-5 (PAD)</td><td>5%</td></tr></table>			ZONE DISTRICT	MAXIMUM PERCENTAGE OF GROSS FLOOR AREA	C-1, C-2-A	20%	C-2-B, C-2-C, C-3-A	15%	C-3-B, C-3-C	10%	C-4, C-5 (PAD)	5%
ZONE DISTRICT			MAXIMUM PERCENTAGE OF GROSS FLOOR AREA									
C-1, C-2-A			20%									
C-2-B, C-2-C, C-3-A			15%									
C-3-B, C-3-C			10%									
C-4, C-5 (PAD)	5%											
773.3 Residential recreation space may be located at ground level, on or above the residential plane, on rooftops, or within a building or other structure	773.4	Unchanged										
773 4 No less than fifty percent (50%) of the total residential recreation space shall be outdoors	773 8	Unchanged										
773.5 <u>The recreation space shall be safe, secure, and</u> equipped or landscaped for the active or passive recreation use of the residents.	773 1	Clarify wording for consistency										
773 6 The area of a balcony shall not be counted to satisfy the residential recreation space requirement of a building where the balcony or a portion of it adjoins an individual residential unit and is accessible only from that unit.	773 5	Unchanged										
773 7 Rooftops that contain recreation space may have a parapet wall not to exceed five feet (5 ft) in height.	773.6	Unchanged										
773 8 ~~If~~ Any portion of a roof is to be used for residential recreation space, ~~the roof area~~ shall have no dimension less than ~~twenty-five~~ <u>eight (8)</u> feet ~~(25-ft.)~~ .	773.7	Rewording for clarity and consistency, and reduce width from 25 to 8 feet minimum.										
773.9 Residential recreation space shall be physically accessible to all residents of the building served by that space.	773.9	Unchanged										
773.10 The floor area devoted to residential recreation space shall not be counted in determining the number of off-street parking spaces or loading berths.	773.10	Unchanged										

Regulation	Current #	Change
<u>773.11 Reduction or elimination of the required residential recreation space shall be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, provided that the provisions of §§ 773.12 – 773.13 are satisfied.</u>	New	<i>New special exception provision</i>
<u>773.12 The Board shall give consideration to the following:</u>	New	<i>BZA considerations</i>
<u>(a) Nature and location of residential recreation space being provided on-site;</u>	New	<i>Allows consideration of nature of space itself</i>
<u>(b) Presence of private outdoor space within the project, such as balconies, decks, or patios;</u>	New	<i>Allows consideration of provision of private space</i>
<u>(c) Nature and location of park and recreation opportunities in the immediate neighborhood. The impact of the project on neighborhood park and recreation facilities shall be found to be acceptable or capable of being mitigated;;</u>	New	<i>Allows consideration of neighborhood amenity levels</i>
<u>(d) Overlay requirements for retail or arts space within the building; and</u>	New	<i>Allows consider public use requirements of applicable overlays</i>
<u>(e) Constraints associated with the building or site that limit the ability to provide residential recreation space within the building or on the site, including ADA or building code restrictions, the conversion of an existing building from another use, and historic structure or small or irregular lot constraints.</u>	New	<i>Allows BZA to consider special site or building constraints</i>
<u>773.13 Prior to taking hearing action on an application, the Board shall refer the application to the Office of Planning and the D.C. Department of Parks and Recreation for assessment of the impact of the proposal on park and recreation facilities within a half-mile radius of the project site.</u>	New	<i>Required DPR review and assessment to assess potential impact and proposed mitigation</i>
CHAPTER 31 – BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE		
3104 SPECIAL EXCEPTIONS		
3104.1 The Board is authorized under § 8 of the Zoning Act, D C Code, 2001 Ed. § 6-641.07(g)(2) (formerly codified at D.C. Code § 5-424(g)(2) (1994 Repl.)), to grant special exceptions, as provided in this title, where, in the judgment of the Board, the special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Map subject in each case to the special conditions specified in this title, as follows	3104.1	<i>Unchanged</i>

Regulation			Current #	Change
TYPE OF SPECIAL EXCEPTION	ZONE DISTRICT	SECTIONS IN WHICH THE CONDITIONS ARE SPECIFIED	<i>New</i>	<i>Addition of "residential recreation space" special exception. review in appropriate alphabetical location</i>
<u>Residential Recreation Space</u>	<u>CR and any SP or C District</u>	<u>§§ 533.11, 635.9, 773.11</u>		

CHAPTER 4 RESIDENCE DISTRICTS: HEIGHT, AREA, AND DENSITY REGULATIONS**411 ROOF STRUCTURES (R)**

411.1 To exercise a reasonable degree of architectural control upon roof structures in all districts, housing for mechanical equipment, stairway and elevator penthouses, and, when not in conflict with An Act To Regulate the Height of Buildings in the District of Columbia, approved June 10, 1910 (36 Stat. 452, as amended; D.C. Code, 2001 Ed. §§ 6-601.01 to 6-601.09 (formerly codified at D.C. Code §§ 5-401 to 5-409 (1994 Repl. & 1999 Supp.))), penthouses for storage and toilets incidental and accessory to roof swimming pools or other recreation space shall be subject to conditions and variable floor area ratio credit specified in this section.

CHAPTER 5 SPECIAL PURPOSE (SP)**533 RESIDENTIAL RECREATION SPACE (SP)**

- 533.1 When all or a portion of a building in an SP District is devoted to a residential use other than a one-family dwelling, flat, or hotel, residential recreation space shall be provided.
- 533.2 An area equal to not less than ten percent (10%) of the gross floor area devoted to residential use shall be provided as residential recreation space, in accordance with the provisions of. §§ 533.3 through 533.10.
- 533.3 Residential recreation space may be located at ground level, on or above the residential plane, on rooftops, or within a building or structure.
- 533.4 No less than fifty percent (50%) of the total residential recreation space shall be outdoors.
- 533.5 The recreation space shall be equipped or landscaped for the active or passive recreation use of the residents.
- 533.6 The area of a balcony shall not be counted to satisfy the residential recreation space requirement of a building where the balcony, or portion of it, adjoins an individual residential unit and is accessible only from that unit.
- 533.7 Rooftops that contain recreation space may have a parapet wall not to exceed five feet (5 ft.) in height.
- 533.8 Any portion of a roof to be used for residential recreation space shall have no dimension less than eight (8) feet.
- 533.9 Residential recreation space shall be physically accessible to all residents of the building served by that space.
- 533.10 The floor area devoted to residential recreation space shall not be counted in determining the amount of off-street parking spaces or loading berths.
- 533.11 Reduction or elimination of the required residential recreation space shall be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, provided that the provisions of §§ 533.12 – 533.13 are satisfied.
- 533.12 The Board shall give consideration to the following.
- (a) Nature and location of residential recreation space being provided on-site;
 - (b) Presence of private outdoor space within the project, such as balconies, decks, or patios,

- (c) Nature and location of park and recreation opportunities in the immediate neighborhood
The impact of the project on neighborhood park and recreation facilities shall be found to be acceptable or capable of being mitigated;
- (d) Overlay requirements for retail or arts space within the building; and
- (e) Constraints associated with the building or site that limit the ability to provide residential recreation space within the building or on the site, including ADA or building code restrictions, the conversion of an existing building from another use, and historic structure or small or irregular lot constraints

533.13 Prior to taking hearing action on an application, the Board shall refer the application to the Office of Planning and the D.C. Department of Parks and Recreation for assessment of the impact of the proposal on park and recreation facilities within a half-mile radius of the project site.

CHAPTER 6 MIXED USE COMMERCIAL RESIDENTIAL (CR)

635 RESIDENTIAL RECREATION SPACE (CR)

- 635.1 For the purposes of this section, the phrase “residential use” shall include dwellings, flats, multiple dwellings, rooming and boarding houses, and community-based residential facilities. When all or a portion of a building in a CR District is devoted to a residential use, private residential recreation space shall be provided.
- 635.2 An area equal to not less than fifteen percent (15%) of the gross floor area devoted to residential use shall be provided as private residential recreation space, in accordance with the provisions of §§ 635.3 through 635.8.
- 635.3 Private residential recreation space may be located at ground level, on or above the residential plane, on rooftops, or within the building or structure.
- 635.4 No less than seventy percent (70%) of the total residential recreation space shall be outdoors.
- 635.5 The private residential recreation space shall be equipped or landscaped for the active or passive recreation use of the residents.
- 635.6 Rooftops that contain recreation space may have a parapet wall not to exceed five feet (5 ft.) in height.
- 635.7 Any portion of a roof to be used for residential recreation space shall have no dimension less than eight (8) feet.
- 635.8 The floor area devoted to residential recreation space shall not be counted in determining the amount of off-street parking spaces or loading berths.
- 635.9 Reduction or elimination of the required private residential recreation space shall be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, provided that the provisions of §§ 635.10 – 635.11 are satisfied.
- 635.10 The Board shall give consideration to the following.
- (a) Nature and location of residential recreation space being provided on-site;
 - (b) Nature and location of park and recreation opportunities in the immediate neighborhood.
The impact of the project on neighborhood park and recreation facilities shall be found to be acceptable or capable of being mitigated,
 - (c) Overlay requirements for retail or arts space within the building, and

- (d) Constraints associated with the building or site that limit the ability to provide residential recreation space within the building or on the site, including ADA or building code restrictions, the conversion of an existing building from another use, and historic structure or small or irregular lot constraints.

635.11 Prior to taking hearing action on an application, the Board shall refer the application to the Office of Planning and the D.C. Department of Parks and Recreation for assessment of the impact of the proposal on park and recreation facilities within a half-mile radius of the project site.

CHAPTER 7 COMMERCIAL (C)

773 RESIDENTIAL RECREATION SPACE (C)

773.1 When all or a portion of a building in a C-1, C-2, C-3, C-4, or C-5 (PAD) District is devoted to a residential use other than a one-family dwelling, flat, or hotel, residential recreation space shall be provided.

773.2 An area equal to not less than the following percentage of the gross floor area devoted to residential use shall be provided as residential recreation space in accordance with the provisions of §§ 773.3 through 773.10:

ZONE DISTRICT	MAXIMUM PERCENTAGE OF GROSS FLOOR AREA
C-1, C-2-A	20%
C-2-B, C-2-C, C-3-A	15%
C-3-B, C-3-C	10%
C-4, C-5 (PAD)	5%

773.3 Residential recreation space may be located at ground level, on or above the residential plane, on rooftops, or within a building or other structure.

773.4 No less than fifty percent (50%) of the total residential recreation space shall be outdoors.

773.5 The recreation space shall be equipped or landscaped for the active or passive recreation use of the residents.

773.6 The area of a balcony shall not be counted to satisfy the residential recreation space requirement of a building where the balcony or a portion of it adjoins an individual residential unit and is accessible only from that unit

773.7 Rooftops that contain recreation space may have a parapet wall not to exceed five feet (5 ft.) in height

773.8 Any portion of a roof to be used for residential recreation space shall have no dimension less than eight (8) feet.

773.9 Residential recreation space shall be physically accessible to all residents of the building served by that space.

773.10 The floor area devoted to residential recreation space shall not be counted in determining the number of off-street parking spaces or loading berths.

773.11 Reduction or elimination of the required residential recreation space shall be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, provided that the provisions of §§ 773.12 – 773.13 are satisfied.

773.12 The Board shall give consideration to the following.

- (a) Nature and location of residential recreation space being provided on-site;
- (b) Presence of private outdoor space within the project, such as balconies, decks, or patios,
- (c) Nature and location of park and recreation opportunities in the immediate neighborhood.
The impact of the project on neighborhood park and recreation facilities shall be found to be acceptable or capable of being mitigated;,
- (d) Overlay requirements for retail or arts space within the building; and
- (e) Constraints associated with the building or site that limit the ability to provide residential recreation space within the building or on the site, including ADA or building code restrictions, the conversion of an existing building from another use, and historic structure or small or irregular lot constraints

773 13 Prior to taking hearing action on an application, the Board shall refer the application to the Office of Planning and the D.C. Department of Parks and Recreation for assessment of the impact of the proposal on park and recreation facilities within a half-mile radius of the project site

CHAPTER 31 – BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE

3104 SPECIAL EXCEPTIONS

3104.1 The Board is authorized under § 8 of the Zoning Act, D.C. Code, 2001 Ed § 6-641.07(g)(2) (formerly codified at D.C. Code § 5-424(g)(2) (1994 Repl.)), to grant special exceptions, as provided in this title, where, in the judgment of the Board, the special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Map subject in each case to the special conditions specified in this title, as follows:

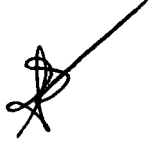
TYPE OF SPECIAL EXCEPTION	ZONE DISTRICT	SECTIONS IN WHICH THE CONDITIONS ARE SPECIFIED
Residential Recreation Space	CR and any SP or C District	§§ 533.11, 635.9, 773.11

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Employment Services
Office of Workforce Development



MEMORANDUM

TO: Joel Lawson
Development Review Planner
Office of Planning

FROM: Susan O Gilbert 
Executive Assistant
Workforce Development Bureau

DATE: APR 20 2005

SUBJECT: Zoning Commission Case # 05-02, Residential Recreation Space Text Amendment

As requested, the Department of Employment Services (DOES) has reviewed Zoning Commission Case # 05-02, Residential Recreation Space Text Amendment for all properties within the District zoned, C (Commercial), SP (Special Purpose); and CR (Mixed Commercial Residential) Zone Districts. Most of this property is located in the downtown area or along major avenues through the District.

The applicant, which is the District of Columbia Office of Planning, has proposed various amendments to the Zoning Regulations to:

- (1) Establish a special exception review process for the provision of relief to residential recreation space requirements in the SP, C and CR zone districts, and
- (2) To amend existing residential recreation space requirements to provide additional clarity and consistency.

Please be advised that the Office of Planning is not required to sign a First Source Agreement as the result of their request to amend various Zoning Regulations for Case Number 05-02. This application has met all criteria established by the Department of Employment Services pursuant to D.C. Law 14-24, D.C. Law 5-93, as amended, and Mayor's Order 83-265.

If you need additional information, please contact Vernell Jordan at (202) 698-5774 or vernell.jordan@dc.gov

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT



MEMORANDUM

TO Joel Lawson
Development Review Specialist
Office of Planning

THROUGH Lawrence C. Cager, Jr. 
Deputy Director for Development Finance

FROM: James Thackaberry 
Supervisory Project Manager

DATE June 1, 2005

SUBJECT Department of Housing and Community Development (DHCD) Review of
Zoning Commission Case No. 05-02 – Residential Recreation Space Text
Amendment

DHCD has reviewed the above referenced Zoning Commission Case you sent by e-mail on April 1, 2005. This memorandum offers comments on the Zoning Commission Case. After staff review of the application materials, DHCD is supportive of the Residential Recreation Space Text Amendment (Text Amendment) as proposed in Zoning Commission Case No. 05-02 for the following reasons:

- 1 The proposed Text Amendment is an interim measure intended to amend certain specific regulations to make them more consistent and easy to use and to establish a special exception process to provide relief from current residential space requirements in C (Commercial), SP (Special Purpose) and CR (Mixed Commercial/Residential) Zone Districts.
- 2 The Text Amendment language is proposed in response to increased difficulty encountered by developers in meeting residential space requirements in C, SP, and CR zones in recent years.
- 3 The difficulty in providing residential space requirements was previously addressed by the Zoning Commission in 2001 with amendments to the Downtown District (DD) Overlay (Zoning Commission Order 943) that reduced residential

spaces requirement from 15% to 5% within C-2-C and C-3-C Districts with the DD Overlay

- 4 The Text Amendment language was developed in consultation with architects, builders, and land use lawyers who have dealt with the zoning requirements. Prior to preparing the Text Amendment, the Office of Planning also reviewed 29 BZA variance requests from the residential space requirements in C, SP, and CR Zones filed since 2001 (all requests were granted).
- 5 The Text Amendment sets up a special exception relief process that introduces review criteria that can be used to justify reduction of provided residential space. These criteria include: - provision of other private outdoor space (balconies, decks, patios), proximity of neighborhood park and recreational facilities, compliance with other space requirements for arts or retail space in the building, and building or site constraints (historic factors, ADA, code requirements, conversion, size)