

Proposed Amendments to Zoning Regulations Governing the Arts
ZC 08-06-4
The Committee of 100 on the Federal City

The Committee of 100 on the Federal City has long supported both public and private steps to further the breadth and depth of artistic activity in our communities. We can agree with a number of proposals in the OP report, including expanding the range of locations where arts development will be encouraged. For several, however, we either need further clarification or we must oppose what has been put forward thus far.

1. Create stand-alone arts districts instead of overlays.

We believe that retention of basic zoning schemes under an arts overlay is precisely what is needed. It is not even clear to us how a stand-alone arts zone could function without recreating underlying zoning. The goals offered for the recommendation – eliminating inconsistencies, unified promotion of arts through zoning, etc. – are all goals that can well be accomplished through a revised overlay.

We recognize the antipathy about overlays that the Office of Planning has expressed in several forums. However, the overlays serve real purposes and provide real benefits in a range of neighborhoods, which we believe will strongly defend their continued existence. Perhaps it would be helpful to have an indication from the Commission about whether it would accept overall zoning schemes that eliminate – in whole or in large part – the use of overlays.

2. Create a new, unified list of arts uses.

We thoroughly support a single list that will offer consistence and clarity. However, as will be noted later, we have serious misgivings about some of the included uses.

3. Divide uses into use types – subsequently listed.

Philosophically, we have no objection to the groupings, but practically an alphabetic listing is more likely to be comprehensive. The current groupings are subjective and thus could be misleading (e.g., should Production Use include Artisan Production Uses?).

Among the PAUL listed items, we would inquire: Why is a Bookstore an arts use? What size and complexity of activities would fit under an Arts Organization and how big could it be, why is Architecture an art, but medicine – the healing art – not? Are tattoo parlors Graphic design studios? Why are Bars, Nightclubs, Cocktail Lounges, Fast-food Establishments, and Prepared Food Shops considered Entertainment Arts? Are they culinary arts – at a bar? What limits will govern the Multi-function Use Group's Art Center?

We cite the OP report's own acknowledgment that the Downtown District had swung too far toward a purely entertainment district. How uses will be chosen for emphasis and by whom are questions that remain to be answered for future Arts Zones or Overlays.

4. Establish FAR requirements for art uses.

We realize further definitions will clarify some of these questions, but we have offered them as an indication of the vagueness and elasticity of the draft. Since this list of PAUL will be a key factor in determining FAR bonuses, considerable clarity should accompany their use.

Also, as bonuses are considered, we would ask the Commission to consider how the many available bonuses and “encouragement” mechanisms would or must be included in decision-making, especially Mandatory Inclusionary Zoning.

6. Establish preferred use groups and FAR bonuses.

In addition to our comments above, we ask that the Commission make clear what its role and the role of the public will be in these determinations.

We ask the Commission to establish guidance on where and how bonuses will be offered. It is hard to imagine that fast-food establishments need encouragement to grow, or bars, or other entertainment uses.

8. Designate primary streets.

It is not clear what the limits of such designations will mean.

Similarly, it is not clear what “energetic” neighborhoods (#9) will encompass. A considerable amount of discussion in other working groups has seemed to anticipate what I call a “Peter Pan” society – one in which no one ages, no one becomes infirm, no one requires ambulatory support, despite knowledge that one in five District residents has a physical condition that seriously limits their mobility.

10. Make arts uses more viable by creating usable spaces.

This series of recommendations raises questions about what will happen in historic districts, and along streets that have a definable character, even if they have not (yet) been designated. Sticking a 14’ storefront along a line of 10’ or 12’ buildings may be controlled by HPRB decisions, but the other neighborhoods’ character should also be protected from mechanistic conformity, especially when it is out of scale.

12. Allow art centers and similar uses in appropriate residentially zoned locations.

Define “art center.” Define “similar.” Define “appropriate.” As this provision stands, we would oppose such uses, especially when made an of-right use. Schools were placed where they are because children had a right to a public education. Arts uses, however laudable, do not respond to a Constitutional right. This would be a use variance under our analysis and should be treated as such.

Special exceptions, presumed to be acceptable, should not be used to rezone property from residential to something else, including those uses in the Multi-function Group.

13. Expand the number of arts uses permitted as home occupations.

Define “(m)any other art forms” that could be practiced in the home. We are sure there are such, but without specificity, this provision would be highly problematic. There is also a need for better definitions and provisions regarding Multi-Artist Live-Work (a trendy but confusing term). How many are “multi” artists? (OP proposes limits on the number of units only.)

Do they all live alone? What about families? What about provisions that home occupations (a commonsense alternative term) must leave a property in a condition that can restore the prior use? Are these to be uses in perpetuity?

The Task Force knows my personal example of a fine artist neighbor; his practice of metal sculpting with power tools makes it sound like a body shop, and the sound reached to homes a dozen doors away. And, yes, we need a noise standard at the source of the noise, not inside neighbors’ homes.

As we increase the density of our neighborhoods, we should take great care about the range of pressures we collectively levy on residents.

I thank you for the opportunity to comment on these proposals, the fundamental thrust of which we agree with, but the form and detail of which give us pause. Or more.