

Comments on Revisions to Chapter 21 – LOADING
ZC 08-06-5 – October 23, 2008
Commercial Zones: Mapping and Use Principles

The Committee of 100 on the Federal City

General Comments on OP Report

We would welcome clarification about some process questions. At the Zoning Commission meeting to consider Parking policy, we were left with the impression that Task Force members and interested others would be able to see draft regulatory language before it became an advertised Proposed Action. The language in the OP report for tonight seems to say that all such language will be written at one time.

In this evening's case, any number of the OP recommendations would limit what could be done at future meetings of the Working Groups on Downtown and on Commercial Corridors. (As we note under Recommendation No. 2, this could potentially extend to all non-commercial zones as well.)

Recommendation No. 1 “Replace existing commercial zone districts and overlays with standalone districts ... tailored to individual areas.”

We strongly oppose this, as we have the other proposed special purpose standalone districts. We believe it is unnecessary, counterproductive, confusing, ill-founded; we have been trying to get some daylight between OP and this “standalone” dream for nearly two years. Let me add some more reasons for the Commission's consideration:

A. Across the city, there could be a need for zoning that is specific to more than 200 neighborhoods, each of which might have a residential zone, a commercial zone, an institutional zone, other uses.

B. It would take years to create all these variations, all of which would be subject to legal challenge on individual grounds; case precedent for existing regulations would be of little use. No two communities would be able to share a challenge to a BZA, ZC, or ZA interpretation, or share in a search for administrative relief.

C. The Zoning Commission, the BZA, and the ZA would have to deal with these hundreds of individual zoning packages and the subtle distinctions intended to differentiate among them.

D. The destabilizing effect of this upheaval would put commercial and residential properties alike on very shaky ground. For years after the myriad districts are finally designed (by whom, it has never been said), there will be appeals and challenges, meaning that perhaps a decade of instability will be the price of this so-called “simpler and more straightforward system.”

E. A number of communities were in the process of seeking approvals for overlays; OP would not consider new overlays because of the zoning review. Those communities would not have the benefit of OP's promise not to “remove or weaken the protections and regulations in place through existing overlays.”

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Most fundamentally, overlays are desired by neighborhoods, as are comprehensible base zones. The Comprehensive Plan called for updates, clarification, and correction of the existing zoning regulations. Instead, OP is engaged in this program of throwing out babies with bathwater. It was opposed then; it was opposed during the roundtables that preceded this entire project. It is opposed now. I believe it will be very strongly opposed if it is put before the public.

Recommendation No. 2 “Consolidation of Use Lists”

We would much prefer fixing the problems with the existing use lists (such as perhaps ten-year reviews of the lists for either outdated or new uses) rather than consolidating the list to a point where the zoning authorities will have little guidance about distinctions. Moreover, the community has come to know what certain terms mean, and they know what can and cannot be done with particular properties in particular areas. A whole new set of nomenclature will present the same challenges identified above in response to Recommendation No. 1.

Even granting that a great deal of work needs to be done to sort out OP’s recommendations, the fact that even these OP reports include confusion about which uses go in which categories suggests that this “fix” may not be so helpful after all. (Fast food establishments seem to fit into several categories; maybe they should.

Remaining Issues: Categorizing other uses.

Not called out as a recommendation is the extension of new undifferentiated zones to the remaining use zones; yet OP “would recommend that the ZC also consider the following proposed categories of non-commercial uses: Residential ... Institutional ... PDR (Industrial) ... Local Government ...”

This would represent sweeping changes to the uses with which residents and businesses are familiar. It also would occur while the Residential topic, for example, remains in limbo because the working groups and OP have not been able to complete discussions.

For the ZC to make policy recommendations (or “decisions,” as OP describes them) before the working groups have finished their work – or the task force even been presented with OP’s report, would be exceptionally premature.

Still another group is included under Recommendation #2: Non-building Uses ... Marine Uses ... Animal Boarding Uses ... and Transportation Uses. Again, these have not been discussed, so presumably they should not be before the Commission at this time. Moreover, the last category is normally accommodated in public space and thus not subject to zoning, so its inclusion is peculiar.

Recommendations Nos. 3 “Retail Use Size Limitations,” 4 “Ground Floor Retail Uses,” and 5” Limitation of Certain Uses on the Ground Floor”

The comment about there being “no existing minimum or maximum size requirements for new retail spaces in the regulations” is confusing. As the Commission well knows, existing zoning regulations for commercial zones limit height, FAR, and number of stories.

The language in this section seeks to keep all options open, thus giving no indication of what is really being proposed. There are promises of great flexibility among zones and changing definitions; yet there are proposed templates for consistency in all new retail uses.

Also, throughout the OP proposals several kinds of word usage need particular definition:

- the generalized qualifier of “where appropriate” gives absolutely no indication of where a provision will be applied;
- the need to describe “significantly redeveloped buildings;” would this be the 25% standard used elsewhere (e.g., §2100.7)?
- the frequent use of the term “ensure” to describe outcomes, which is inappropriate; few future changes can be “ensured” through zoning provisions.

Moreover, there needs to be specificity regarding the impact on historic districts and landmarks, and regarding other regulatory powers (particularly Alcoholic Beverage Control, with its liquor-license moratoriums).

Recommendation No. 6 “Ground Floor Design Standards”

The impact of the proposed standards is hard to measure since “designated streets” are not cited. We would want neighborhood retailers to be able to retain the flexibility to build in a manner consistent with the existing street character of neighborhoods. With all the discussion of individual community standards, this provision has the potential to create uniformity of development across very different communities.

In addition, the consequences of uniform 14’ ceiling requirements, with a proposed commensurate increase in building height, must be viewed in conjunction with proposals to add nearly 2’ to usable penthouse allowances, and any bonus density granted as part of PUD or other provisions.

Recommendation No. 7 “Adaptability of New Retail Space”

How far-reaching any such provision should be is a matter of concern. The zoning rewrite process is adding considerably to the base costs of development, and it would be wise to see how often such a “reversible retail” would be utilized before making it a universal mandate.

Thank you for the opportunity to review this proposal and comment.

Barbara Zartman
Zoning Chairman