

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING



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MEMORANDUM

TO: Zoning Commission for the District of Columbia

FROM: Travis Parker, Zoning Review Manager

DATE: December 1, 2008

SUBJECT: ZC Case 08-06-5

ZONING COMMISSION
District of Columbia

CASE NO. 08-06-5

EXHIBIT NO. 19

Zoning Regulations Review - Retail/Use Recommendations

On October 23, 2008, the Office of Planning (OP) presented preliminary recommendations for retail and general use regulations as part of the Zoning Review Process. Members of the Zoning Commission left the record open for further comment and requested the Office of Planning to further address the first two recommendations. This report provides additional information and analysis on those recommendations for case #08-06-5.

Recommendation #1

Allow for and create corridor-specific commercial zones with height, bulk, and use standards tailored to a particular geography.

This could be accomplished by replacing overlay zone districts with standalone districts in which the uses and area restrictions are tailored to the needs of specific and contiguous geographic areas. The creation of standalone districts would not change the protections and restrictions afforded by the current overlays, but rather include them in an underlying zone for that area.

This recommendation would allow for neighborhood customization of commercial zones. The Commission requested further discussion about the planning process for making zoning changes.

The recommendation would not require any changes to the existing planning process, but would allow significant time savings in the implementation of zoning tools. Currently, large new zoning initiatives, such as new overlays, are generally the result of a public planning process. This usually involves a Small Area Plan that is publicly vetted, reviewed by relevant ANCs, and approved by the City Council.

For zoning changes to geographic areas, the Small Area Plan process is then followed by another public process to create and draft a new zoning overlay with new text and often with new tools. This second process that results in new zoning text can be significantly reduced or even eliminated by standardizing zoning tools across all commercial zones and providing menu-style options for customization of local zones.

Not every change requires a Small Area Plan. Minor amendments or items already identified in the Comprehensive Plan will be able to be processed much more quickly with a standardized

template, allowing a change to one or two regulations without the creation of a complete new overlay.

The potential time savings are shown in Figure 1. By expediting the process of implementing planning for local areas in the zoning code, the Commission can move more swiftly to address local issues and handle a larger quantity of zoning issues.

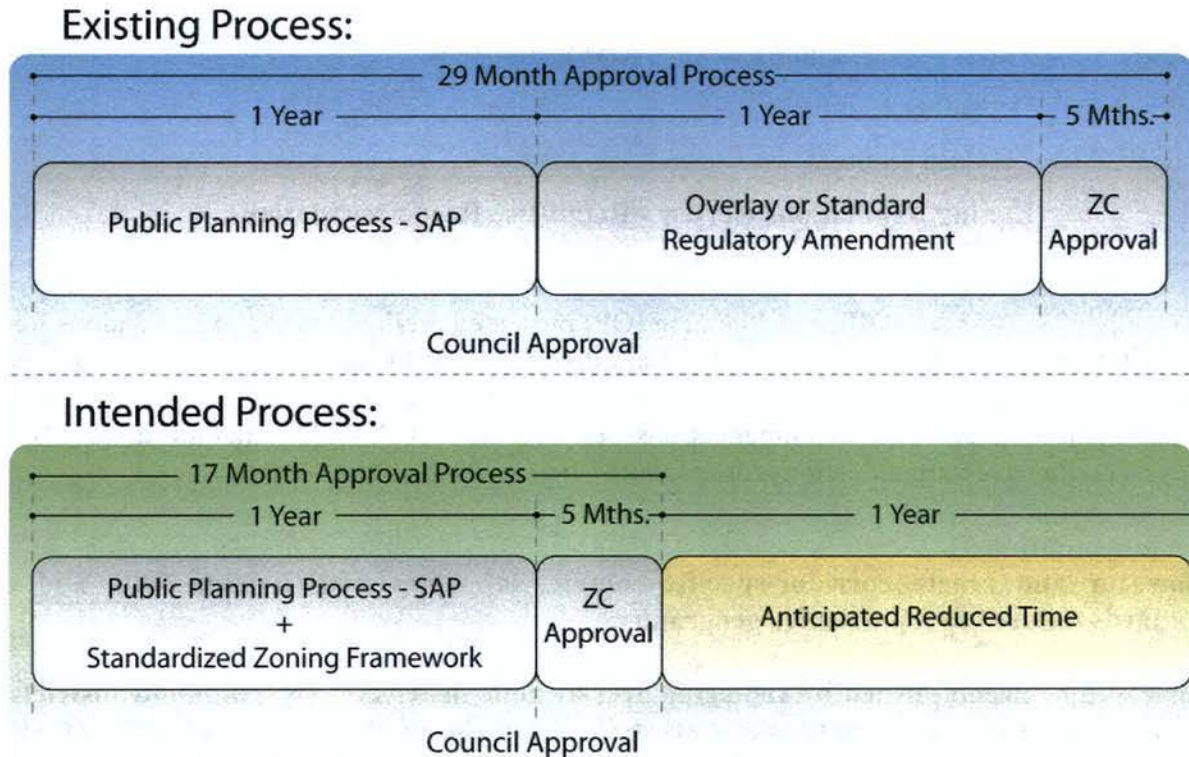


Figure 1

Recommendation #2

Consolidate the current retail, service and miscellaneous use lists contained in Chapter 7 into broad categories. Proposed commercial categories include: Retail, Service, Office, Accommodation & Food Service, Entertainment, and Arts. Categories would be permitted or prohibited in each zone with conditions for each use (such as hours of operation, radius requirements, and the amount of gross floor area occupied) established for each district.

At the hearing, the Commission asked for further information regarding how a system of use categories would work as opposed to the existing system of listing individual uses. There are two attachments to this memo that provide additional insight.

Attachment One includes text from the use category section of the Portland, Oregon ordinance. This document shows the basic rules that Portland uses to distinguish uses and define use categories. The second page includes two use categories (“office” and “major event entertainment”) as examples of how the category descriptions in that ordinance are organized.

Attachment Two contains a table showing the eight cities researched in the HNTB best practice study. These eight cities have use groups or lists that range from five uses to 128 uses. When

compared to D.C.'s current list of 607 unique uses, this begins to show how outdated and complicated our existing system has become. The table contains brief descriptions of the use system in each of the best practice cities and compares them to the OP proposal for D.C. In addition to this information, the Commission also asked for more analysis of how parking requirements could address different uses within the same use category. OP has looked into the other cities that have general use categories. For the most part, the system translates well to parking and the requirements are given by square footage for all of the uses within a category. Where there are specific uses within a category that have unique parking requirements, those uses are called out individually (or the use category is further divided) to provide the more detailed requirements as needed. For example, some cities with a general category for office uses call out medical and/or dental offices for different parking requirements than general office.

Introduction to the Use Categories

33.920.010 Purpose

This Chapter classifies land uses and activities into use categories on the basis of common functional, product, or physical characteristics. Characteristics include the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and certain site factors. The use categories provide a systematic basis for assignment of present and future uses to zones. The decision to allow or prohibit the use categories in the various zones is based on the goals and policies of the Comprehensive Plan.

33.920.020 Category Titles

The names of the use categories start with capital letters throughout this Title.

33.920.030 Classification of Uses

A. Considerations.

1. Uses are assigned to the category whose description most closely describes the nature of the primary use. The "Characteristics" subsection of each use category describes the characteristics of each use category. Developments may have more than one primary use. Developments may also have one or more accessory uses. Developments with more than one primary use are addressed in Subsection B below. Accessory uses are addressed in Subsection C below.

2. The following items are considered to determine what use category the use is in, and whether the activities constitute primary uses or accessory uses:

- The description of the activity(ies) in relationship to the characteristics of each use category;
- The relative amount of site or floor space and equipment devoted to the activity;
- Relative amounts of sales from each activity;
- The customer type for each activity;
- The relative number of employees in each activity;
- Hours of operation;
- Building and site arrangement;
- Vehicles used with the activity;
- The relative number of vehicle trips generated by the activity;
- Signs;
- How the use advertises itself; and
- Whether the activity would be likely to be found independent of the other activities on the site.

B. Developments with multiple primary uses. When all the primary uses of a development fall within one use category, then the development is assigned to that use category. For example, a development that contains a retail bakery and a café would be classified in the Retail Sales And Service category because all the primary uses are in that category. When the primary uses of a development fall within different use categories, each primary use is classified in the applicable category and is subject to the regulations for that category.

C. Accessory uses. Accessory uses are allowed by right in conjunction with the use unless stated otherwise in the regulations. Also, unless otherwise stated, they are subject to the same regulations as the primary use. Common accessory uses are listed as examples with the categories.

D. Use of examples. The "Examples" subsection of each use category provides a list of examples of uses that are included in the use category. The names of uses on the lists are generic. They are based on the common meaning of the terms and not on what a specific use may call itself. For example, a use whose business name is "Wholesale Liquidation" but that sells mostly to consumers, would be included in the Retail Sales And Service category rather than the Wholesale Sales category. This is because the actual activity on the site matches the description of the Retail Sales And Service category.

Portland, Oregon Use Category Regulations

Use Category Examples:

33.920.240 Office

A. Characteristics. Office uses are characterized by activities conducted in an office setting that focus on the provision of goods and services, usually by professionals. Traditional Office uses are characterized by activities that generally focus on business, government, professional, medical, or financial services. Industrial Office uses are characterized by activities that, while conducted in an office-like setting, are more compatible with industrial activities, businesses, and districts. Their operations are less service-oriented than Traditional Office uses and focus on the development, testing, production, processing, packaging, or assembly of goods and products, which may include digital products such as internet home pages, media content, designs and specifications, computer software, advertising materials, and others. They primarily provide products to other businesses. They do not require customers or clients to visit the site; any such visits are infrequent and incidental.

B. Accessory uses. Accessory uses may include cafeterias, health facilities, parking, or other amenities primarily for the use of employees in the firm or building.

C. Examples. Examples include uses from the two subgroups listed below:

1. Traditional Office: Professional services such as lawyers or accountants; financial businesses such as lenders, brokerage houses, bank headquarters, or real estate agents; sales offices; government offices and public utility offices; medical and dental clinics, and blood collection facilities.
2. Industrial Office: Software and internet content development and publishing; computer systems design and programming; graphic and industrial design; engineers; architects; telecommunication service providers; data processing; television, video, radio, and internet studios and broadcasting; scientific and technical services; and medical and dental labs.

D. Exceptions.

1. Offices that are part of and are located with a firm in another category are considered accessory to the firm's primary activity. Headquarters offices, when in conjunction with or adjacent to a primary use in another category, are considered part of the other category.
2. Contractors and others who perform services off-site are included in the Office category if equipment and materials are not stored on the site and fabrication, services, or similar work is not carried on at the site.

33.920.230 Major Event Entertainment

A. Characteristics. Major Event Entertainment uses are characterized by activities and structures that draw large numbers of people to specific events or shows. Activities are generally of a spectator nature.

B. Accessory Uses. Accessory uses may include restaurants, bars, concessions, parking, and maintenance facilities.

C. Examples. Examples include stadiums, sports arenas, coliseums, race tracks (auto, horse, dog, etc.), auditoriums, exhibition and meeting areas, and fairgrounds.

D. Exceptions.

1. Exhibition and meeting areas with less than 20,000 square feet of total event area are classified as Retail Sales And Service.
2. Banquet halls that are part of hotels or restaurants are accessory to those uses, which are included in the Retail Sales And Service category.
3. Theaters, including drive-in theaters, are classified as Retail Sales And Service.

Attachment 2: Best Practice Cities

Municipality	Use System	Total Number of Uses	How it Works	How it Compares to Proposal
Boston, MA	Allowed uses, Conditional uses, forbidden uses, uses subject to other regulations, and pre-existing conditional uses	89	Includes some neighborhood based overlays, but include only additional allowed uses, conditional uses and form requirements, not disallowed uses. Highly specified systems of uses using both categories and lists of uses with performance standards.	A more extensive listing of uses than the proposed system, but hundreds less than our current code
Boulder, CO	Use system is part of a three part zone system composed of use, form, and intensity (a factor of density). The system is clear, simple and easy to use.	128	Includes overlays for Historic districts, floodplains/wetlands, airports, and medium density areas. Extensive form and intensity standards govern the uses in each zone, illustrated with graphics. All listed uses are defined.	Use lists greatly reduced from current code. Number of uses was recently reduced in an update process to be more similar to DC use system proposal. Both systems strive to be clear and simple.
Chicago, IL	"17-17-0101-A Use Groups "classifies land uses into 5 major groupings: Residential, Public and Civic, Commercial, Industrial, and Other. These are referred to as "Use Groups." 17-17-0101-B Use Categories Each Use Group is further divided into more specific "Use Categories." Use Categories classify land uses and activities based on common functional, product, or physical characteristics. "	5 Use Groups, 51 'Use Categories'	Characteristics include the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered and site conditions. 17-17-0101-C Typical Uses Typical uses cited in the description of Use Categories are not intended to be exclusive or restrictive. 17-17-0101-D Determination of Appropriate Land Use Categories When a specific use type cannot be classified into a Use Category or appears to fit into two or more Use Categories, the Zoning Administrator is authorized to determine the most appropriate Use Category.	Both Chicago and the Proposed DC Use System groups uses by similar impacts and effects, refrains from listing specific uses.
Denver, CO	Use categories group specific uses based on similar physical and functional characteristics. Each use category can be defined in a manner that can both exclude unrelated specific uses and remain flexible enough to allow additional or emerging uses that may not be included in the category by name.	Recent Change from 400 to 100	Use categories must be mutually exclusive, meaning a use is listed one time only. Currently undergoing a zoning rewrite process to improve ease of use, maintain character in stable areas, and improve areas of change.	Both are seeking to simplify their number of uses, and situations where allowed/disallowed uses overlap with overlays.

Fort Collins, CO	Permits allowed listed uses; all uses not listed are not permitted.	101	All allowed uses are listed in the beginning of each zone chapter, making it difficult to know which uses are allowed across zones. A summary chart listing uses by zone aids in ease of use.	A summary chart of allowed uses would be a easy and logical way to organize the Proposed DC Use System.
Milwaukee, WI	Each zone type (residential, commercial, etc.) has a chart of allowed, conditional and not permitted uses.	16 use Categories; 147 total defined uses	Each type of zone has a chart of allowed uses and form restrictions.	Many more number of uses than the Proposed DC system, but all are clearly defined, as the proposal suggests.
Portland, WA	A system of 5 base zones delineates allowed, conditional & prohibited use sub-categories. Environmental and TOD overlays impose stricter prohibited uses and form restrictions.	5 Use categories; 30 use sub-categories	Planning staff says there are seldom problems fitting proposed uses into broad use categories. The system has been in place since the 1990's.	A similar number of use categories are used for the proposed DC Use System. Each use category is broadly defined, examples are given and exceptions listed clearly.
St. Petersburg, FL	A three layer system of form, use and intensity (a measure of several types of densities)	54	Uses listed in a use allowance matrix showing permitted primary, conditional, permitted accessory, non-permitted. Overlays discuss additional permitted uses, but not prohibited uses, focusing more on form and intensity restrictions. Graphics also add additional clarity.	Very similar to DC's Proposed Use System in the modulation of form, use and intensity. The matrix of use allowances adds great clarity.
Washington, DC	Existing Use lists are in the hundreds with many repeats of slightly different worded uses	607	Repetitive, outdated, and undefined use lists hinder the ease of use of the current Zoning code.	Existing use system
Washington, DC	Proposed Use System: A use category system that balances the impacts of uses with performance standards	21	Lengthy existing use lists are slotted into larger categories based around their similar impacts and regulated by additional levels of performance standards, such as those in many of our existing overlays	Proposed use system

Why these examples?

These examples were chosen from a pool of 60 cities across the country that met a series of criteria comparing their conditions to Washington DC. With the help of the consultant HNTB the following criteria were applied and used to narrow down the above cities as case studies.

- Cities of similar geographic size, population, or housing density;
- Cities experiencing similar growth and redevelopment pressures;
- Cities addressing similar zoning and planning challenges such as infill, new development or redevelopment, or transit-oriented development;
- Cities with large areas of institutional land; and
- Cities known for their innovation or creative approaches no matter what their demographic characteristics.