



2008 NOV -7 PM 4: 38

MEMORANDUM

TO: District of Columbia Zoning Commission

FROM: Travis Parker, Zoning Review Project Manager 

DATE: November 7, 2008

SUBJECT: Public Hearing Report for ZC #08-06-6
Proposed Amendments to Zoning Regulations – Industrial

ZONING COMMISSION
District of ColumbiaCASE NO. 08-06-6
EXHIBIT NO. 5**I. ZONING REVIEW PROCESS**

The 2006 Comprehensive Plan for the District of Columbia states that “The Zoning Regulations...need substantial revision and reorganization, ranging from new definitions to updated development and design standards and even new Zones” (Comprehensive Plan, §2504.2). It goes on to note that “a major revision to the Zoning Regulations is planned for 2007-2009” (ibid). OP has designed a three-year process to produce recommended changes to update, clarify and simplify the current Regulations.

Regulations are currently being reviewed by subject area, with up to twenty subject areas to be covered in the next few years. Each subject area will be reviewed in consultation with a public working group that will discuss issues identified in the Comprehensive Plan as well as issues arising from the existing Zoning Regulations. Recommend changes are then forwarded to the 24-member Task Force for further review and input. Finally, recommendations for each subject area are made available for public review including a hearing before the Zoning Commission. After the conclusion of public review for all subject areas, OP will work with the Office of the Attorney General to draft zoning language to reflect the proposed policy changes.

Drafting the language for all subject areas at once, rather than for each topic, allows for the overlap between different subject areas and establishes a cohesive writing style and format. The recommendations for the first three subject areas – height, parking, and loading – were written as draft zoning language, rather than recommended text changes or zoning policies. The remainder of the subject areas, including industrial, will come forward to the Commission as recommended changes and policies. After all topics have been heard by the Commission, those policies will be unified into one proposed zoning text.

II. INDUSTRIAL SUBJECT AREA PROCESS

The Industrial Working Group held meetings during the months of June and July 2008. The Working Group was made up of citizens’ group representatives, industrial land owners, and

others with an expertise or interest in industrial zoning. The group held three two-hour long meetings that supplied OP with many comments and much guidance.

The goal of the Working Group was to ensure that zoning for industrial land furthers the policies of the Comprehensive Plan and is clear and easy to interpret. For discussion by the working group, OP staff researched industrial land uses throughout the District and industrial zoning techniques from around the country and referred to the 2005 Industrial Land Use Study. The result of this analysis and the input from the Working Group is a set of five recommendations for the Industrial zoning chapter:

Following the last working group meeting, the preliminary recommendations were sent to the Taskforce for additional review and comment at the September 17, 2008 Taskforce meeting. The next draft of the recommendations were posted online and made available for review and comment by the public.

III. BACKGROUND OF RECOMMENDATIONS

A. Input

This report describes strategies for improving the industrial environment in our city and simplifying the regulations of industrial uses and areas. Four main sources contributed to the identification of issues and their solutions:

- The policies and action items of the Comprehensive Plan;
- The Zoning Commission's direction that the Zoning Review should result in greater clarity, ease of use and relevance;
- Comments of working group participants;
- A best practices study of other cities that regulate industrial use through zoning.
- 2005 Office of Planning Industrial Land Use Study

The result of that process was a set of five recommendations addressing the regulation of industrial land use through zoning. The initial list of recommendations was developed by OP staff with input from the Working Group and are detailed below in section IV. For each topic the existing practice is described, followed by a description of the issues identified with the current regulation. OP's recommendation to address the issue is listed next, as well as an analysis of how the proposal would be an improvement. Finally, any other remaining issues pertinent to that topic are explained. All of the proposed regulations would apply only to new or significantly redeveloped buildings. New use or design requirements would not apply to existing buildings or uses.

The proposals listed below, and others to be considered by future working groups, attempt to achieve the goals of the Comprehensive Plan and address the concerns expressed by members of the Working Group and Task Force. The recommendations also seek to meet the general goals of the Zoning Review by providing clarity, ease of use and relevance for the regulations.

B. The Comprehensive Plan

The Comprehensive Plan is the starting point for the entire Zoning Review and for every topic area. The Plan's policies and action items address industrial uses in several citywide and area elements. The discussion of industrial land uses within the Plan ranges from identifying areas where industrial land should be retained, to suggesting locations and strategies for rezoning industrial lands for other uses, to developing techniques to lessen the impacts of industrial land uses on neighboring residential areas. Supporting comprehensive plan text regarding industrial land use is listed with each recommendation in Section IV.

Section 3.1 of the Land Use Element of the Comprehensive Plan addresses industrial uses and the protection of industrial land. Topics include the conservation and protection of existing industrial areas, mitigation of industrial impacts, the placement of industrial uses, and the relation of industrial uses to other use categories.

The Comprehensive Plan also addresses industrial land uses in the Economic Development and Environmental Protection Elements in sections ED-2.5 and E-5. The Economic Development Element discusses retaining Production, Distribution, and Repair (PDR) land as a way to help foster a diverse economy that maintains and creates living wage jobs. In the Environmental Protection Element, the discussion of industrial uses is framed by issues of environmental justice and our efforts to prevent a concentration of industrial uses in a particular community or geographic area. This section of the Plan also discusses the need for better measurement and enforcement of existing regulations that address the external effects often associated with industrial uses (e.g., noise regulations), and the need to study the health impacts of industrial uses when making land use decisions.

Industrial land uses are also discussed in six Area Elements. Depending on the location, varying policies and actions were proposed. In the Lower Anacostia Waterfront/Near Southwest (AW-1), suggested actions included reducing the amount of industrial land to allow new redevelopment along the waterfront. In parts of the Far Northeast and Southeast and Rock Creek East areas, Plan policies focused on providing adequate buffers between residential and industrial uses, improving the appearance and screening of industrial uses, and suggesting areas where it may be appropriate to consider land use changes from industrial to mixed or residential uses (FNS-1.2 & RCE-1.2). The Upper Northeast Area Element includes the most comprehensive discussion of PDR uses as this part of the District contains the highest concentration of industrial land. Suggested actions included retaining PDR land along the New York Avenue NE corridor, encouraging mixed uses in certain areas, and retaining existing municipal land uses and guiding future development to maintain their viability (UNE-2.3).

C. Survey of Practices in Other Cities

In order to inform our recommendations, OP conducted a study of practices and zoning regulations pertaining to industrial uses in other cities. Sample cities studied include Boston, Chicago, Portland, San Francisco, and Seattle. Issues like buffering and performance measures as well as classifying land uses were reviewed.

Many communities use similar techniques, such as the use of landscaped buffers, minimum required yards, and performance standards to buffer industrial-zoned land from residential uses (Chicago, Boston, Portland) but may differ in their application. For example, the city of Portland zoning code addresses land use impacts individually (e.g., vibration, noise, odor, etc...), defines acceptable levels for each impact, allows for exemptions under certain circumstances, and provides guidance on how to measure impacts, including the equipment used and location from which to take the measurement. Boston uses universal performance standards for all uses, not just for industrial ones. Their regulations also include varying standards which are assigned based on the intensity of the use and on its proximity to incompatible uses but does not provide for specific measurements of such impacts.

OP also found that the term PDR is becoming more widely used when describing industrial or manufacturing land uses (San Francisco). And finally, we learned that some cities have adopted a use category system instead of the traditional use list format (Chicago, San Francisco). This system recognizes the constantly changing and evolving environment which often results in the creation of new uses, technologies, and products that may not be captured in a static list.

The best practices research was useful in providing insight on how other communities are tackling the same issues as well as reinforcing some of the ideas and strategies proposed here as being consistent with what is being done elsewhere. The proposed recommendations represent an acknowledgement of the current trends regarding how to classify and regulate industrial land use as well as the importance of the local context when suggesting such changes.

D. Industrial Land Use Study (ILU study)

In 2005, the D.C. Office of Planning commissioned a detailed study of the District's industrial lands from a land use, economic, and market perspective. The study identified the importance of industrial land in terms of the District's immediate public sector space needs -- of which equaled almost 70 acres of land -- and the critical role of PDR jobs in the District economy. Nevertheless, it found that there is a limited and shrinking supply of industrial land in the District, in that much of the city's industrially zoned land is either "undevelopable, has been rezoned, or is under significant development pressures" (ILU, p.3). Actual buildable land that is industrially zoned is less than 5% of total D.C. land. In dealing with the scarcity of the District's industrial land, the ILU study recommended that the District modernize the existing zoning framework for industrially zoned land. Proposed zoning strategies included creating more appropriate standards and protections for PDR businesses where continued PDR use is suitable through, in large part, the modification of existing zoning districts. Many of the study findings were directly incorporated into the 2006 Comprehensive Plan.

IV. INDUSTRIAL RECOMMENDATIONS

The basis of these recommendations is threefold; first, the preservation of land for PDR uses and facilitation of those uses; second, the buffering and protection of residential areas surrounding PDR uses; and third, the update and simplification of the industrial chapter. The following five recommendations are proposed with these goals in mind.

1. Name of Industrial Districts

Existing Practice

Existing industrial districts are titled “Commercial-Manufacturing” (C-M) or “Manufacturing” (M).

Issue

The term “manufacturing” does not adequately describe the types of land uses that currently exist or are allowed to locate in the District’s industrial zones. Production, Distribution, and Repair (PDR) is a more accurate categorization of these uses.

Recommendation

Rename existing C-M and M zones to PDR (Production, Distribution, and Repair). C-M-1 through C-M-3 would become PDR -1 through -3, and M would become PDR-4.

Analysis

Both the 2006 Industrial Land Use Study and the 2006 Comprehensive Plan reference “PDR” rather than industry or manufacturing. As stated in the Industrial Land Use Study, “[t]he PDR term, while not perfect, better captures the types of ‘heavy services’ that are found in the Districts industrial areas: Production, i.e., the actual making of things, including construction-related industries; distribution, including warehousing and transportation; and repair, which includes the maintenance and repair of vehicles, machinery and equipment, and buildings through the building trades.” (Industrial Land Use Study, 19). The term better describes the breadth of uses allowed in these zones and recasts “images of manufacturing plants, mills, and other heavy uses not reflective of what goes on in DC’s industrial districts.” (Industrial Land Use Study, 19). Finally, this recommendation would not alter any of the underlying provisions of the industrial districts.

2. Performance Measures

Existing Practice

C-M and M districts have unique performance measures to control external effects of PDR uses. The existing zoning ordinance regulates sound, smoke, odor, fumes, dust, glare, and vibration.

Issue

Currently, many of the performance measures are either based on outdated standards or vague to the point of providing no standard at all.

Recommendation

Coordinate performance standards with current District Department of the Environment (DDOE) standards. Where possible, ensure that measurable standards are used.

Analysis

The existing performance standards base many of the restrictions on the undefined standard of “no objectionable amounts.” Others use outdated external documents such as the 1950s era Ringelmann Smoke Chart to limit external effects. As such, the Industrial Land Use study identified that performance standards in industrial areas require modernization. The Comprehensive Plan also directs that “[d]uring the revision of the Zoning Regulations, develop performance standards and buffering guidelines to improve edge conditions where industrial uses abut residential uses, and to address areas where residential uses currently existing within industrially zoned areas.” (Action LU-3.1.B: Industrial Land Use Compatibility). The Office of Planning has had discussions with District Department of the Environment that aim to better define current performance standards. This recommendation would, where possible, replace outdated or vague zoning standards and incorporate, where possible, more appropriate DDOE requirements.

3. PDR Uses

Existing Practice

PDR uses are listed in the C-M chapter and carry over into the M chapter. The main distinction between the two zone districts is the level of performance standards.

Issue

The use lists in the C-M and M chapters are duplicative, incomplete, and out of date.

Recommendation

The existing PDR use list in the C-M and M chapters should be replaced by a thorough definition and description of PDR uses that would be defined as a category.

Analysis

The existing list of uses allowed in C-M and M districts contain a repetitive, incomplete, and confusing array of permitted uses. For example, the use list includes a general statement allowing “any light manufacturing, processing, fabricating, or repair establishment.” But the list then goes on to call out individual uses that already fall within this description. In general, a system characterized by a list is not dynamic enough to keep up with modern technology or new uses, and it often leads to difficulty in

matching a proposed use to one of the choices on the list. The result is a confounding system that can cause difficulties for a Zoning Administrator and the general public. The proposed solution would be to comprehensively define PDR uses as a category and thereby avoid a use list that lacks clarity and requires continual updates.

4. Retention of Development Potential for PDR Uses

Existing Practice

Existing C-M and M zones allow all commercial, institutional, and PDR uses without distinction.

Issue

According to the 2005 Industrial Land Use Study, there is a limited and increasingly shrinking supply of PDR land. At the same time, PDR uses typically generate lower land rents than residential, office, or retail uses. Non-industrial development pressures are expected to result in the loss of sufficient land for PDR uses.

Recommendation

The development potential of PDR land should be adjusted to encourage the construction of PDR uses while also permitting the continued development of non-PDR uses as guided by market demand.

This could be accomplished by capping the development potential for non-PDR uses similar to commercial uses in commercial zones. Suggested limits are:

Zone	Current Maximum FAR	Proposed Maximum FAR	Proposed Non-PDR FAR Limit
PDR -1(C-M-1)	3.0 FAR	3.5 FAR	2.0 FAR
PDR -2(C-M-2)	4.0 FAR	4.5 FAR	3.0 FAR
PDR -3(C-M-3)	6.0 FAR	6.0 FAR	4.0 FAR
PDR -4(M)	6.0 FAR	6.0 FAR	1.0 FAR

Analysis

The Comprehensive Plan and the Industrial Land Use Study stress the importance of protecting the limited supply of industrial land. According to the ILU study, the development pressures on these properties present a significant threat to the ability to locate much needed PDR services in the District and to foster PDR job growth in the city. The Comprehensive Plan incorporates the many of the ILU study's findings, including the importance of conserving industrial land. (See LU-3.1 Public Works and Industrial Land Uses; Policy LU-3.1.1: Conservation of Industrial Land and Action). It supports "Retain[ing] an adequate supply of industrially zoned land in order to accommodate the production, warehousing, distribution, light industrial, and research and development activities which sustain the local economy, support municipal services, and provide good

employment opportunities for District residents.” (Policy ED-2.5.1: Industrial Land Retention; see also Policy LU-3.1.1: Conservation of Industrial Land and Action, LU-3.1.A: Industrial Zoning Use Changes). This policy is particularly emphasized for the M, or manufacturing, zones. (Policy ED-2.5.2: Retaining Heavy Industry).

Against this backdrop, the Comprehensive Plan also recognizes the development potential of these lands for non-PDR uses. For instance, the Comprehensive Plan provides “[e]nsuring that zoning regulations and land use decisions protect active and viable PDR land uses, while allowing compatible office and retail uses and development under standards established within CM- and M-zoning.” (Policy LU-3.1.1: Conservation of Industrial Land). In Upper Northeast, for example, the Comprehensive Plan recognizes the importance of retaining PDR uses, but also the creation of jobs through new uses such as retail and office space. (See Policy UNE-1.1.8: Untapped Economic Development Potential, Policy UNE-1.1.9: Production, Distribution, and Repair Uses).

To balance the guidance to retain industrially zoned land for PDR uses while also permitting some office and retail use in PDR zones, the Office of Planning recommendation proposes a cap on the amount of non-PDR uses in PDR zoned areas while also increasing the total development envelope slightly in the PDR-1 and PDR-2 zones. Under this proposal, PDR zones would limit, but continue to permit, retail and office uses (most new residential development would continue to be prohibited). This system was designed with non-PDR floor area ratio caps that matched the existing conditions in these zones so that there would be maximum flexibility to use existing buildings for all commercial and industrial uses, but that new larger buildings would be required to contain a PDR component. This system would accomplish both Comprehensive Plan goals by retaining the right to use existing buildings for any commercial or institutional use, while ensuring that development potential is reserved for PDR uses in new buildings.

The Comprehensive Plan also notes the historic office and retail uses along both sides of V Street between Bladensburg Road and South Dakota Avenue NE, which it instructs “should continue in accordance with the existing CM- and M- zoning”. (Policy UNE-2.3.2: Production, Distribution, and Repair Land Use). In order to maintain allowances for office and retail development in this area similar to the existing CM and M levels, the Office of Planning will continue to work with property owners in this area to assure that the properties are appropriately mapped prior to any transition of zoning language.

5. Buffering

Existing Practice

The current regulations provide separate buffering standards for different areas and uses. Both the special exception standards and the Langdon Overlay are largely concerned with buffering PDR uses from residential zones. Side yards are currently required where PDR uses abut residential uses.

Issue

The separate buffering standards associated with different uses and geography found throughout the industrial chapter are mostly similar in their intent and effect. However, the lack of coordination between them adds unnecessary complication to the regulations.

Recommendation

Create uniform buffering standards to apply wherever PDR zones abut residential zones. These standards would replace existing rear yard, side yard, and court regulations as well as eliminate the need for existing special exception and overlay standards.

Suggested standards are:

- **25 foot yard required adjacent to Residential districts**
 - **15 foot yard required when separated by street or alley**
 - **Yard must contain solid vegetative buffer, fence or wall to visually screen use**
- **No outdoor storage of materials/waste within 200 feet of a residential zone**

Analysis

The Comprehensive Plan broadly recommends improving buffering standards where PDR zones abut residential zones. (See Action UNE-1.1.A: Industrial/Residential Buffers). In Action LU-3.1.B: Industrial Land Use Compatibility, the Comprehensive Plan instructs that “[d]uring the revision of the Zoning Regulations, develop performance standards and buffering guidelines to improve edge conditions where industrial uses abut residential uses ...” It emphasizes the need for improved buffers in areas such as Deanwood and Upper Northeast neighborhoods, among others. (See Policy FNS-2.2.5: Deanwood Industrial Buffers; Policy UNE-1.1.11: Buffering).

To accomplish the enhanced buffering, the Comprehensive Plan suggests several strategies. For instance, “Policy LU-3.1.5: Mitigating Industrial Land Use Impacts” offers to “[m]itigate the adverse impacts created by industrial uses through a variety of measures, including buffering, site planning and design, strict environmental controls, performance standards, and the use of a range of industrial zones that reflect the varying impacts of different kinds of industrial uses.” More specifically, it considers the possibility of “extending the Langdon Overlay (L-O) zone, which prohibits certain types of industrial uses in immediate proximity to residential uses and which requires screening to protect residential areas.” (Action UNE-1.1.A: Industrial/Residential Buffers). The need to reduce heavy truck traffic on residential streets is also identified. (Policy UNE-1.1.12: Truck Traffic). There is also guidance to require “special exceptions for potentially incompatible large retail uses in the C-M zone to provide more control over such uses without reducing height and bulk standards.” (Action LU-3.1.A: Industrial Zoning Use Changes).

The proposal would combine the buffering requirement of several different parts of the PDR chapter into a single set of requirements. The standard of a 25 foot yard next to

Residential zoning (15 feet on a street or alley) that must be screened matches existing requirements found in the Langdon Overlay. Making this requirement universal for areas where the PDR districts abut residential zoning would remove the need for the existing side yard standard and similar special exception requirements. Similarly, a requirement of rear yards and courts is less necessary when the PDR uses are properly buffered from residential districts.

There was discussion in the working group of continuing the wider yard requirement for recycling and waste management uses as currently called for in the zoning regulations. However, these uses are already regulated for buffering elsewhere in the DC code (Section 8-1058). As these standards may change over time, repeating them in the zoning regulations could lead to conflicting development standards. This recommendation would create a unified buffer for all PDR uses and allow recycling and waste management to be more strictly regulated by the DC Code.

Attachment 1

Industrial uses currently listed in Chapter 8

Permitted (some with conditions or review):

- (a) Carting, express, moving, or hauling terminal or yard;
- (b) Commercial athletic field;
- (c) Experimental, research, or testing laboratory;
- (d) Incinerator;
- (e) Motorcycle sales and repair, with no limitation on location;
- (f) Laundry or dry cleaning establishment;
- (g) Public utility pumping station;
- (h) Repair garage;
- (i) Wholesale or storage establishment, including open storage, except a junk yard;
- (j) Any light manufacturing, processing, fabricating, or repair establishment;
- (k) Temporary detention or correctional institution;
- (l) Electronic equipment facility (EEF);
- (m) Driver's license road test facility;
- (n) Fire department training facility;
- (o) Asphalt plant;
- (p) Intermediate recycling facility
- (q) Solid waste handling facility
- (r) Concrete plant;
- (s) Animal boarding

Prohibited:

- (a) Abattoir or slaughter house;
- (b) Acetylene gas manufacture;
- (c) Ammunition and explosive manufacture or storage;
- (d) Animal rendering;
- (e) Arsenal;
- (f) Bituminous products refining or manufacture other than asphalt
- (g) Bone products manufacture;
- (h) Calcium carbide manufacture;
- (i) Curing, tanning, or storage of hides;
- (j) Fertilizer manufacture;
- (k) Rock quarry or the excavation of rock for commercial purpose;
- (l) Rubber products manufacture or treatment;
- (m) Steel furnace, blast furnace, bloom furnace, coke oven, or rolling mill;
- (n) *Any other use with objectionable characteristics similar to those listed in this subsection.*