

Statement of the Committee of 100 on the Federal City
ZRR 08-06-7
Campuses and Institutional Uses

Protection of Residential Neighborhoods

While there will be separate consideration of zoning changes affecting residential neighborhoods, the Committee of 100 feels the need to raise very serious concerns about how provisions being recommended under separate ZRR actions will hollow out the protections essential to the neighborhoods on which so much of Washington's future is dependent.

Under provisions of Arts and Culture recommendations, as well as rulemakings on the future use of District buildings, the Zoning Commission has been asked to endorse non-residential uses as a matter of right. We have previously attempted to point out the distinction between uses that are constitutionally protected (such as the right to a free public education or the practice of religious expression) from niceties (such as arts centers or nonprofit organization headquarters). Especially when there is no discussion about how many such of-right new uses may proliferate, we ask the Commission to reject these changes.

Nearly half of the District's real estate is not subject to property taxes. To adopt policies that significantly expand the ease with which more nonprofits can replace residential uses seems to undermine economic development objectives, as well as make neighborhood residential cohesiveness more difficult to achieve and maintain.

The Process This Time

The policies regarding institutional uses and campus plans are critically important to residential neighborhoods of Washington. The existing system is in need of many fixes, but the proposals from the Office of Planning are a mix of too little and too much.

(The working-group process was skewed by one institution bringing in a large number of supporters who were not familiar with the campus planning process but who wanted to testify to their high opinion of "their" school.)

Nonetheless, there were active participants from areas affected by large institutions. Many had particular concerns about enforcement of conditions imposed on these institutions. Concern was also expressed about the problem of standards varying from one institution to another, which has been the practice for some time.

Once again OP uses the term "best practices," a term normally associated with evaluations of alternative approaches, with objective assessments of effectiveness. In OP's case, these are more accurately described as "interesting practices," since OP admits this was not a comparative analytical assessment. This should affect the Commission's level of confidence in the merits of various proposals.

ZONING COMMISSION
District of Columbia

CASE NO. 08-06-7

EXHIBIT NO. 28

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Recommendations

*No. 1. We agree with the goal of a common regulatory structure for all institutions, but not at all with the recommendation that the **type** of use should not be factored into the regulatory scheme. A hospital is different from a college campus, which is different from a secondary school, which is different from a charity's offices or a research institution. Vastly different provisions need to reflect these very different uses.*

No. 2. We disagree with (a) the high 300,000 square feet GFA trigger for campus plans, (b) the elimination of essential second-stage reviews, (c) the establishment of matter-of-right institutional uses in residential zones, and (d) the bifurcation of special exception cases into different classes.

Regarding (a), OP itself originally recommended a 100,000 GFA threshold for campus plans, which we believe is much closer to a level that would surely impact communities and justify creation of a campus plan.

In (b) granting carte blanche authority to proceed for a decade without second-stage review cuts the community out of the process entirely. Changed circumstances, unforeseen impacts, cumulative consequences all would have up to a ten-year blank check, with no recourse for the neighborhoods impacted.

Re (c), changing residential zoning to allow matter-of-right institutional location up to some undecided size level is **completely unacceptable**. It is the equivalent of a use variance for some groups; of course, use variances require the toughest test in zoning, and here OP proposes to grant it broadly, with no limit on the number of such institutions. As we have noted, with 42% of District property already tax-exempt, the zoning regulations should not be writing further incentives for nonprofit institutions to move into residential zones, where they take taxable property (and their taxpaying occupants) off the rolls and possibly decrease the value of nearby homes.

We are not sure what is gained by the sub-classes of institutions and their plans as suggested in (d). Current regulations already permit individual organizations to seek a series of special exceptions. Current special exceptions allow conditions and second-stage review, or Form 300 complaints to the OZ. Without either retaining second-stage reviews, or designing a new and robust public review capacity early in the review process, orders and their conditions will lack any integrity. Without public input from affected communities, the Zoning Administrator would not have access to information about snarled traffic, noisy late parties, carousing into the early-morning hours, trash on streets, abusive behavior, and other problems frequently associated with college campuses.

The use of a 3,500 square foot standard for changes fails to consider (again) changed circumstances, collective impact of numbers of changes, or the kind of impacts identified by the Neighbors for a Livable Community, whose comments we would wish to be associated with.

As the OP report indicates, there was serious disagreement about GFA as a measure; uses are far more likely to be the line of discernment. It is implausible that OP has gathered information from "all of the institutional uses located in the District" to use as the basis of their recommendations. Thousands of smaller institutions exist across the District.

No. 3 *However bad the present system is, the design suggested by OP may not be any better, and in some regards is significantly worse. There are also large gaps. Tightening the existing system would be more likely to produce a workable structure and better direction.*

The “likely to become objectionable” standard has proved unworkable because of incomplete information from schools or because the phrase is so open to subjective interpretation. Clear standards, capable of independent evaluation, would be essential in any workable system.

Missing from the report is anything substantial about student housing, on and off campus. Nothing is mentioned about particular behavior, about activities (late outdoor events, e.g.), about public safety and campus security, about what constitutes ancillary uses (which should come closer to 10% than 50%), about commercial activities on nonprofit campuses, and the like. The attached article from a recent New York Times edition offers an assessment of unacceptable conditions in off-campus housing, a byproduct of inadequate provision of on-campus housing; the pressure on students to find housing at any cost and in any condition harms not only the students but the fabric of private residential communities.

A great need exists for fine-grained standards for information about students and employees (or other categories appropriate to other institutions). They should include, for example, patient visits to hospitals and doctors’ offices and other relevant measurements. These bodies of data need to be comparable from one institution to another of the same type.

The issue of student and employee caps is barely touched, though it is critical to a healthy relationship with neighborhoods. It would be helpful if there were recommendations on how caps could be structured to be fairest to all concerned; similarly, guidelines about how conditions could be structured to withstand legal challenge would be helpful. We strongly urge dropping FTEs and other devices, since they do not reflect the number of persons who will be coming and going from these institutions.

An exploration of limits to continued campus and institutional expansion would be a very healthy addition to policy decisions. Clear language in the Comprehensive Plan requires that **“the expansion of these uses is not permitted if the quality of life in adjacent residential areas is significantly adversely affected.”**

Clarity about the inappropriateness of PUDs in campus plans is essential; we believe there is no excuse for blending two distinct zoning schemes, whose purposes are not at all the same.

This section is drafted in sincere language that seeks to be curative of long-standing and complex problems, adding some contemporary goals. But the objective may be stronger than the analysis. Rather than adding new categories of review and variable standards, a better system might add the definitions and standards that would bring clear and consistent information.

No. 4 *As is clear by now, we support either the continuation of a more robust second-stage review or – possibly – an as-yet-undesigned alternative public process allowing community input about changing and/or cumulative impacts.*

No. 5 The Committee would be happy to work with OP to develop the kinds of requirements for special exception review that could be useful, based on the many experiences with campus plans and other land-use matters.

No. 6 As noted, we believe ancillary uses should be just that: ancillary. A 50% standard makes them co-equal with the prime purpose, which is not consistent with the zone plan. We think, as do others, that something closer to 10% would be a reasonable standard in a residentially zoned area. There also needs to be clarification about what is meant by the three A's: academic support, accessory use, and ancillary use. In the past, these terms have been used to cover virtually any conceivable use.

Also needed are regulations covering important additional circumstances:

- Policies in an approved campus plan continue into subsequent plans unless specifically abandoned for specific reasons.
- Once approved, new structures and alterations must be executed as approved or must undergo reconsideration; initial approval may not be used as a place-holder for unspecified alternative uses. The OP proposal to eliminate “use” as a criterion in campus plans exacerbates the potential harm.
- Cumulative impacts are powerful, and a provision needs to be crafted that would allow for consideration of the collective objectionable impact of several institutions that OP proposes be considered under individual campus plans.

This enumeration could continue, but our intent is not to be exhaustive, but to make strong recommendations about direction. We ask the Commission to direct OP to amend its proposals in ways that will protect and not hollow out the protections our residential communities need.

Barbara Zartman
Zoning Chairman

11/16/08.

Student Renters Get Help With Housing

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David Pratt, a student in Washington, has had problems with the quality and upkeep of his house in the Georgetown section.

By ADAM LEE BICKI SMALL
Published October 31, 2008

WASHINGTON — David Pratt, a transfer student to American University here, was ready to settle for almost anything after a monthlong housing search. So, when he visited a row house in the Georgetown neighborhood, he overlooked the peeling paint, the splintered floorboards, the shattered windows and the washing machine that drained onto the floor.

"I didn't notice all those things," Mr. Pratt said. "I was just happy to have found the place."

In August, when Mr. Pratt and his housemates moved in, the previous tenants were gone and the 140-year-old house's problems were glaring. Disenchanted, Mr. Pratt, 22, began looking for help.

A quick Internet search found thisshouldbeillegal.com, a Web site set up in August by city housing officials as part of a campaign for students and others looking to rent legal and safe housing.

The city set up accounts on free Web sites, including Facebook, Twitter and WordPress, with links to housing codes, an inspection checklist used by the city, and a searchable database of landlords' business licenses. Renters can also use the sites anonymously to report violations or to request inspections.

"Too often, students are the target of off-campus landlords trying to make a quick buck at your expense," Linda Argo, the director of the program, said in a videotaped introduction to the Web site. "So we want to put the power in your hands."

More than 9,000 users have visited, and a third of them have used the database, said Michael Rupert, the city official who works with the student housing campaign.

Mr. Rupert, who lists his cellphone number and e-mail address on the Web site, said he had taken more than 200 inspection requests from students, at least 50 of which led to investigations.

Many students are unaware of their rights as renters. Relying on first impressions of housing or descriptions from online listings, they can be easy prey for unscrupulous landlords.

Ms. Argo said the city wanted a new tool to ease students' concerns about retaliation and even eviction for reporting illegal rentals or unsafe properties. Officials said the program could help deal with problems like those that led to the 2004 death of Daniel Rigby, a 21-year-old [Georgetown University](#) senior.

Mr. Rigby died of smoke inhalation, trapped inside his burning basement apartment blocks from campus. Investigators said metal bars welded over windows and a furnace blocking a rear exit prevented him from escaping the fire, which they said was ignited by a candle or cigarette.

Campus Firewatch, an online publication that tracks student fire fatalities through news reports,



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Student Renters Get Help With Housing
Brendan Smialowski for The New York Times

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Campus Firewatch, an online publication that tracks student fire fatalities through news reports, said that 108 of 129 campus-related fire deaths since 2000 occurred in off-campus housing.

After Mr. Rigby’s death, fire officials said students turned them away as they went door-to-door inspecting houses and installing smoke detectors.

“The traditional methods of outreach were not reaching enough students because there was too much hesitation about contacting government,” Ms. Argo said. “There were too many unknowns.”

Across the country, colleges and universities have tried with varying degrees of success to mediate landlord-tenant relationships. Many provide rental listings, inform students of their rights as renters and refer students to the proper authorities to settle housing disputes. Few colleges provide legal representation for students who have problems with off-campus housing, although several give legal advice.

“A lot of people listen, but a lot of people don’t,” said Esther Pratt, coordinator of the University of Illinois Student Tenant Union, which spends more than \$20,000 a year to advertise its services on campus.

Since Mr. Rigby’s death, Georgetown University officials have organized an annual safety day featuring housing authorities and the fire department. Julie Battaile, a university spokeswoman, said the university welcomed the city’s new approach.

“The biggest thing is that students didn’t know there was such a thing as a housing inspection that they could get,” Ms. Battaile said. “They want to know that kind of information.”

When Mr. Pratt, the American University senior, and his roommates got no response to their complaints from the property manager, a private company called the Student Housing Association, Mr. Pratt called Mr. Rupert.

Within two days, an inspector checked the house, and a week later, the landlord was cited for 17 violations. The city also opened investigations of the owner of the house, Lewis D. Brown, who did not have a license to rent the property, and the property management company.

Mr. Brown, the Student Housing Association and its parent company, Metropolitan Housing, did not respond to repeated calls for comment.

Mr. Pratt said that a month after he contacted the city, the property manager had completed several repairs, including the windows and washing machine, and was working on others.

“I’m looking forward to settling this,” he said.