

TF or Public Comment	OP Response
General Comments	
I have read your proposals and on the whole, it seems a big improvement over what we have now. I especially like the addressing of the height, area and front setback issues.	
Kudos to whomever should take credit for this work! I am especially fond of recommendations 11 and 13.	
I have reviewed the recommendations document and like very much the content and format. You have successfully captured the discussions that the working group has had.	
Despite the often-stated goal of simplifying zoning, the current proposals are even more complex in structure, even as they sweep away protective specificity in favor of vague and generic provisions. Repeated requests to restore existing provisions and protections have regularly been dismissed.	
Overall, we reject OP's pressure to change residential neighborhoods by adding new categories of "by right" uses (arts, institutional, governmental, e.g.). We reject the consistent advocacy for increasing density and eliminating open space. At one point in this report OP acknowledges the merits of the Lewis Plan and its commitment to "preserve open space in residential areas." OP further opines that limits such as lot occupancy are "still useful and should be maintained for that reason."	
1. Reconfiguration of Existing Zones	
Substituting templates and tools throws zoning into disarray. If only a half-dozen individual districts could be developed each year, areas that are already queued up seeking overlays would have still more years of waiting for OP's consideration. Nothing addresses the fate of communities for which new development is planned, communities not likely to benefit from these proposed changes. At a Zoning Commission hearing, OP indicated it had changed its thinking about overlays and would support using either an overlay or an individually designed stand-alone district. These recommendations drop overlays as "often confusing to interpret and apply." Despite requests that it address the unique dual-use existing R-3 zones (principally Georgetown and Anacostia) many of the recommendations fail to indicate how proposals would be applied there. The adoption of "use performance measures" instead of permitted, prohibited, and conditional uses would remove	As the zoning needs of our city change, our existing system is rapidly losing its coherence. We bring in new concepts inconsistently through overlays and have different rules for different parts of the city. The proposal is to change the system to create a standardized format that allows and encourages the modern zoning changes that we are currently trying to force into our 1958 ordinance.

ZONING COMMISSION

CASE No. 08-06-81

EXHIBIT No. 21

ZONING COMMISSION
District of Columbia
CASE NO. 08-06-8
EXHIBIT NO. 21

Appendix A – Public Comments

March 12, 2009

predictability and substitute subjectivity. The list of uses can certainly be modernized; a schedule for regular reviews of the list can be established. These would have a stabilizing benefit.	
2. Height	
Changing how height will be measured, the recommendation does not say anything about what the height will be. Am I to assume that the forty foot limit (without the limitation on the number of stories) is continued and note that R-5-B permits a fifty foot height? It seems to me that the idea of measuring to the top of the roof or the midpoint of a pitched roof will make it more advisable to go to flat roofed buildings, even when that is not characteristic of a neighborhood. In the diagram in Figure 1, is a "pent roof" the same as a mansard? If not, how do you measure height on a mansard roof? In the case of a building with an ornamental cornice or front facade, is the height measured to the top of the cornice or facade or to the top of the roof behind? Nothing in the discussion of height addresses an issue which has been contentious off and on for a while: how to measure height when the lot slopes, either side-to-side or front to back. Does that suggest that nothing is proposed to be changed from the current system (in particular, that height is measured from the middle at the front)? By eliminating the measurement to the ceiling of the top story, is all height now measured from the curb at the middle of the front (the impact of this is significant in areas with slopes, depending upon whether the lot is on the uphill or downhill side of the street)?	• Existing height limits would remain. Customized changes to local zoning could amend height limits. • Measuring to the top of a pitched roof would favor flat roofs, while measuring to the midpoint is a commonly used standard to remove that bias. • The pent roof is a mansard roof • This recommendation does not include changes to the top or bottom measuring points for height. These would be unchanged from the Height recommendations already reviewed by the ZC
3. Front Yards	
Does a new building in a block with existing buildings have to be exactly on line with any existing building (which one, if the buildings differ)? Does this propose to create a "build-to" line, meaning that a new building cannot be setback further than any existing buildings? How does this apply in the case of a corner lot? Front yard recommendations cannot reasonably be evaluated without DDOT establishing clear regulations about what can and cannot be done in public space between a residential lot line and the sidewalk. Once those policies are codified, limitations on building fronts (or sides, in the case of triangular lots) can be framed. It is not clear why regulations should preclude designs that allow more open space in front of a building than is required.	• The proposal is that on any block face the furthest forward and furthest back buildings would set the limits for new construction. Only in the cases where all buildings were on the exact same alignment would this result in a "build-to" line.

4. Side Yards	
I hope that any minimum side yard dimension [for extensions] will respect the current 5' limit so that HPRB is not faced with additions that meet zoning requirements but are not compatible with historic standards.	Discussions with HP staff have informed us that it is usually more in character to extend back on the existing plane (even at 2' or 3') than to jog the addition to 5'.
The ratio recommendation would allow a new structure on vacant or cleared lot to be sited with no reference to the other houses on a block face. While a lot of DC housing was built pre-zoning much of that was developed in a short time frame by a few developers who maintained a coherent rhythm. The ratio recommendation would allow a new house to be built as close to the lot line as the minimum side yard allowance would allow no matter what the general rule on the block might be. I don't see that this recommendation adds anything positive to residential zones.	The existing 8' standard sets conditions that are often out of character with the surrounding homes, forcing out of character development. While the proposal would continue to allow out of character development, it takes a step forward in always allowing in character development.
I would urge you to give the ZC specific numbers for minimum side yard and eligible undersized lots and accompanying footprints by zone. If it could be determined that there would be little impact on existing housing with the first and limited applicability on the latter, I think it would be helpful.	
I understand the idea of establish a maximum percentage of the width of a lot which may be occupied (Recommendation 4a). How does this apply in the case of a nonrectangular lot? Is it measured only at the front lot line or the front of the house, wherever it is (the building may be nonrectangular but the house will tend to be orthogonal)? What is the absolute minimum side yard? What is the purpose of having a side yard requirement and how does this overall percentage contribute to meeting that purpose? Is the thought that this is protecting adjoining property or is the thought that this is intended to provide breathing space on the lot for the benefit of that lot? This question has come up a number of times before the BZA, and I don't think it has been conclusively addressed. My observation is that each lot has to derive its own light and air from its own property and my neighbor cannot rely upon my setbacks for his or her enjoyment and vice versa. If that is the case, I don't understand what purpose is served by the maximum percentage of width allowed to be occupied. To me, setbacks provide distance between houses; the overall percentage creates a meaningless requirement.	- The details of the treatment of irregular lots will have to be worked out in the drafting of text. - The thought behind this recommendation is that it provides the building separation benefits of side yards while allowing flexibility in placement on the lot to promote development in character with existing buildings.

Appendix A – Public Comments

March 12, 2009

I disagree with your thought that in historic districts, an existing side yard could not be eliminated, even if that side yard is not required (Recommendation 4C). If a row dwelling is permitted, then why is it not permitted in this situation? If the impact of eliminating a side yard would have an adverse impact on historic preservation, then that is a matter for the HPRB and/or the Mayor's Agent. Zoning should be neutral on whether or not the building is historic.	• The recommendation as published did distinguish between historic and non-historic. Based on this and other comments, Recommendation 4c has been amended as Recommendation 6c.
There should be a minimum width to any side yard that is proposed to be extended, whether in a historic district or not; special exception relief provides an option for special circumstances. Linking neighboring houses in order to trigger R-3's dual provisions, increasing lot coverage by 50%, should require public hearings; OP seemed to have agreed on this point, but the recommendations say the opposite.	• The issue of different lot occupancies in the same zone is a separate issue and should be addressed separately. It may be appropriate to have only a single lot occupancy standard per zone.
5. Courts	
6. Building Area	
The thrust seems to be a transformation of residential areas so that there can be additional density in already built-out neighborhoods and planned density in new neighborhoods. The recommendations combine to allow more building where there currently is open space. From the point of view of allowing development on tight sites, Recommendations 6a and 7, as to lot occupancy and rear yards, are beneficial. However, it seems that this could lead to overcrowding on small sites in established neighborhoods, which is something you should consider. The OP proposals seem to be aimed at distorting the market. To achieve some equity, OP proposes to relieve owners of small parcels of the requirements imposed on neighbors, including draining and other environmental standards. They also fail to consider the impact on nearby properties, which would be denied the chance to make their case in a public forum. The number of lot-occupancy-variance requests merely underscores the way in which some seek to push the envelope – and the need for pushback.	• The intent of this recommendation is not to overcrowd or remove open space. While zoning can prevent the creation of new substandard lots, there are many pre-1958 lots that were legally created and therefore developable. The goal is to allow development on these lots that is compatible with the surrounding character rather than significantly different in size and form from the surrounding building stock. The control of drainage and other environmental concerns should not be left to lot occupancy standards and should be subject to their own standards. Recommendations on Sustainability will include requirements in these areas that would apply even to these substandard lots.

Removing non-conforming side yards and courts from lot occupancy calculations is a productive move, and I wish you had gone further to limit the conversion of semi-detached housing to rowhouses. Removing the lot occupancy incentive is a partial solution, but current regulations would continue to provide a double incentive to alter semi-detached houses to rowhouses by offering no side yard requirement and 50% more lot occupancy.	• This is an important point. Based on this and other comments, Recommendation 6c proposes that each zone only have a single lot occupancy limit for all residential uses.
7. Rear Yards	
OP again proposes to eliminate open space requirements, changing the relationship between structures and building lots, by defining away minimum standards.	• See Lot Occupancy discussion
8. Residential Density	
OP discusses communities that seek to have four- or six-unit buildings, and the need to protect moderate density areas from excessive densities. Yet it proposes to accomplish this by permitting “flexibility from the standard” in the “toolbox” zoning districts in even low-density areas.	• The intent is to maintain the existing unit per lot limits, but allow neighborhoods customizing their zone to rethink what the local limit should be.
9. Subdivision	
10. Permitted Uses	
The use recommendations appear to remove the ability of neighborhoods to truly impact the incidence of new non-residential uses as MOR in all residential zones. By advocating for a change in the "system" OP is limiting the need for variances where the public has a voice and replacing that "system" with one that makes variance situations MOR. There will be no opportunity for regulatory bodies to decide that a particular use is not appropriate in residential neighborhood because just about any use you can imagine will fit within one of the major categories. You can't pre-determine the impact of a use based on size. It's predictable that a mega-church will attract a lot of traffic and parking demand, but even a small church that starts a day-care program or evening classes may create quality of life issues. If we need to have a citywide discussion about what our expectations should be in our neighborhoods and re-examine the definition of quality of life that's one thing, but what is proposed has not been subject to that dialogue.	• The recommendation is intended to add significant neighborhood control over non-residential uses. Right now, uses are either permitted or prohibited with little thought to how the permitted uses might be impactful or the prohibited uses might be useful if properly controlled. The proposed system allows control over all non-residential uses that will allow appropriate uses and control inappropriate uses through the limitation of not only size, but things like hours of operation, deliveries, foot traffic, employees, owner occupation, etc.

Appendix A – Public Comments
March 12, 2009

It is not clear to me from what is proposed how these residential zones will be structured. The existing zones are cumulative, so that as you go up the ladder, all of the uses permitted by the more restrictive zones are also permitted. I can't tell if that structure is going to be continued or if it will be supplanted by a customized zone for each neighborhood.	• With the removal of a list of uses, there is no need to have a cumulative system. Each of the use categories would be identified in each zone as permitted, conditional, or prohibited.
I understand the desire to build these zones from the grass-roots stage up. I get the feeling that this is basically an attempt to empower local communities to drive the regulations in the direction of conforming to current neighborhood character. Who is looking at the needs and goals of the city as a whole? What happens if every neighborhood decides it wants to be like 16th Street Heights and restrict all uses other than residential? What happens if every neighborhood decides it doesn't want any private schools? What happens if every neighborhood says "no more CBRFs?" What happens if neighborhoods say no to inclusionary zoning and affordable housing? Where is the citywide perspective brought into these customized zones?	• In drafting the text, these issues will be part of the OP and ZC review. There will be a need to create a baseline of use standards that neighborhoods cannot go below, especially for institutional uses like churches and schools. General form standards (Recommendations 2-8) would be changeable; other standards like IZ would not.
Is my understanding correct that you intend to somehow allow commercial uses (the proverbial corner grocery store) in residential zones? Are you saying that, in residential areas, there should be pockets of commercial zoning? Does it matter?	• Rather than pockets of commercial zoning, neighborhoods could choose to allow the proverbial corner store under certain conditions. This recommendation is not designed to force commercial into residential neighborhoods, but to create a system where it could be accomplished where it is desired.
Recommendation 10, again, seems a recasting of the discussion of use lists. May we yet once more question OP's devotion to corner stores and the like. Special exceptions can deal with especially meritorious store location, but repeatedly members of the working groups for residential and for historic preservation spoke of the damaging effect of these stores.	
11. Accessory Buildings	
There is once again a call to force more development on residential communities. In this case, there is no provision for keeping accessory structures from imposing on adjoining properties, either in location or in height.	• Accessory structures should continue to be regulated for location and height to prevent negative imposition on neighboring properties.
12. Non-Residential Use of Historic Buildings	
For existing institutional buildings what are the "adaptive reuses" that would be allowed? How do you decide if the new use is a matter-of-right or requires a SE?	• The ZC is currently considering this issue in a previous text

We oppose of-right use of Historic Institutional Buildings for a range of nonresidential purposes. Surely it is not inappropriate to subject the “rezoning” of such properties to public hearings since it really is a proposal to rezone use. Surely changing the standard by use of impact assessments and matter-of-right development could be very destabilizing to the residential community, and be harmful to the property as well. And there has not been a case made about there being a problem with a backlog of such buildings, hampered in their development by the current provisions.	amendment case (ZC 08-18). The results of this case could be directly adopted to meet this recommendation.
13. Buildings Abutting an Alley	
The regulations concerning buildings abutting an alley should differentiate between alley lots (lots which front only on an alley) and lots which have street frontage but which may accommodate a second subordinate or independent building at the rear facing the alley. Are all other aspects of buildings on alley lots left unchanged (e.g., the limitation on height to one story and fifteen feet)?	• This recommendation is intended to address the lots with street frontage. All other aspects would remain unchanged.
Alley structures pose their own range of concerns, including adequacy of fire and safety access, adequacy of utilities (since many are older buildings, often not well maintained). They are also usually not designed for family living or socializing, and can represent a source of discordance with the zoning goal of promoting family life. Nonetheless, there are properties that might suitably be developed, but they should be evaluated in public hearings open to neighbors who could be impacted. The requirements for safe adaptation of old garages/carriage houses to today’s demands are likely to add significantly to the cost of such dwellings. Also to be evaluated at hearings would be the combined impact of two households (e.g. up to 12 unrelated persons) in what normally would be close quarters. The proposal to do all this through a matter-of-right process fails to protect existing property owners and residents, as well as the occupants of alley dwellings.	• Text resulting from this recommendation should contain conditions for fire, safety, utilities, etc.
14. Historic Waiver for Loading	
Do the comments regarding changes for loading requirements for historic structure apply only to low and moderate density residential zones (in which case there is very little applicability, because most structures in those zones do not require loading at all)? If this is intended to be of general applicability, it belongs somewhere else and not part of these recommendations.	• This recommendation should have been resolved in the Loading subject area but came up in regard to historic buildings in residential areas.
We support the need to update loading standards for historic structures.	

Appendix A – Public Comments
March 12, 2009