

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING



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MEMORANDUM

TO: District of Columbia Zoning Commission

FROM: Travis Parker, Zoning Review Project Manager

TP

ZONING COMMISSION
District of Columbia

DATE: March 18, 2009

CASE NO. 08-06-8

SUBJECT: Public Hearing Report for ZC #08-06-8

EXHIBIT NO. 4

Proposed Amendments to Zoning Regulations – Low/Moderate Density Residential

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). The Office of Planning (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. Recommended 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 public 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 residential, 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 that will be the subject of a second public review process.

II. RESIDENTIAL SUBJECT AREA PROCESS

The Low and Moderate Density Residential working group met from July through November 2008. Work group participants included a large number of interested citizens representing many

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areas of the city. OP highlighted for the group the Comprehensive Plan's main goals for residential areas: protection of existing character and promotion of conforming infill. Using those goals as a starting point, and with the assistance of a zoning practices research, the group helped OP identify weaknesses in the existing regulations and discuss new strategies and concepts. The extensive comments and insights provided by the working group were critical to forming OP's recommendations.

The recommendations in this document are the product of OP's work with the working group and do not necessarily represent the opinions of either the entire working group or individual working group members.

Following the last working group meeting, the preliminary recommendations were sent to the Taskforce for additional review and comment at the January 24 Taskforce meeting. While reviewed by the Taskforce, *the recommendations in this document do not necessarily represent the opinions of either the entire Taskforce or individual Taskforce members.*

The next draft of the recommendations were posted online and made available for review and comment by the public in late January.

III. BACKGROUND OF RECOMMENDATIONS

This document presents recommendations to the Zoning Commission for conceptual changes to low and moderate density residential areas. The recommendations seek to increase the protection of existing or desired neighborhood character by improving local residents' input into zoning. The overall goal of the Zoning Review process is to improve the relevance, clarity and ease of use of the zoning code.

The development of these recommendations was guided primarily by the 2006 Comprehensive Plan's many policies on low and moderate density residential areas. Many of these policies focus on providing a better match between the existing built environment in residential areas and the zoning that regulates their development. In 1958, zoning was applied generally across the city and often had little relation to the existing building stock. Decades of development without comprehensive updates to the zoning code has not significantly increased neighborhood conformity with zoning. In many cases, the current zoning in residential areas would prohibit the redevelopment of the existing historic housing forms and uses of the area. In built-out cities such as Washington, national trends have led towards zoning more explicitly tailored to the existing character of local areas. These recommendations aspire to provide all neighborhoods with a simpler and clearer method of customized zoning than the existing layers of zoning and multiple overlays.

The Recommendations in this report are based on those in the public hearing notice for 08-06-8 published on February 20, 2009. There are no substantive changes to the recommendations from that public hearing notice with the exception that Recommendation 4c has been removed and replaced with Recommendation 6c.

IV. LOW/MODERATE DENSITY RESIDENTIAL RECOMMENDATIONS

Recommendation One – Standardized System

The existing zones for low and moderate density areas (R-1 through R-5-B) have been supplemented over the years through the creation of many individualized overlays. This has allowed for some local customization of regulations, but only in an ad hoc, inconsistent, and complicated way. Moreover, local customizations are limited greatly by the existing rigid system of residential zones. Rather than continue to add new and expanded overlays on top of existing residential zones, the clarity of the zoning code can be improved. To aid the ease of use of residential zone regulations, this recommendation proposes a low and moderate zone template with a basic set of standards that can be set at different levels of intensity based on the local character of a residential area. These standards can be tailored to implement the Comprehensive Plan and small area plans for different areas. Existing residential zones would be put into the template using their existing standards, and standards from overlays would be included in the zoning for those areas. The system would then allow future actions to amend individual standards within local zones to improve compatibility between zoning and neighborhood character. The template would also allow elements from current overlay zones to become options for all low to moderate zones city-wide, improving the equity of zoning options.

1. Reconfiguration of Existing Zones –Templates with Customizable Standards

Existing Practice

In the existing regulations, there are seven low and moderate density residential zones that are mapped throughout the city: R-1-A, R-1-B, R-2, R-3, R-4, R-5-A and R-5-B. Where more zoning specificity is needed, customized overlay zones have been drafted to alter some of the elements of the underlying zone in response to small area plans or neighborhood concerns. Both zones then apply to the area with the more restrictive standards of the underlying and overlay zones being enforced. Effectively, existing base and overlay zones combine to result in 37 current low and moderate density residential zones.

Issues

The existing system of disparate overlays is often confusing to apply and interpret. Users of the zoning ordinance must reference and compare multiple chapters and the zoning map to understand the applicable standards for a property. More importantly, the process to create a new overlay is excessively long and without guidelines, leading to a lack of equity in provisions from neighborhood to neighborhood. Each overlay is designed from scratch, usually creating new tools or new lists of uses, and often having minimal organizational or functional relationship to other overlays or the rest of the ordinance.

Policy Guidance

The Comprehensive Plan recognizes the variety of neighborhoods throughout the District and calls for maintaining that diversity (Policy LU-2.1.1). The Plan further recognizes the importance

of “an emphasis on conservation in some neighborhoods and revitalization in others” (Policy LU-2.1.3), and calls for the protection of the “character of neighborhoods by requiring the height and scale of structures to be consistent with the existing pattern” (Policy LU-2.1.7). It also expresses a need to “provide a better match between zoning and existing land uses in the city’s residential areas” (Action LU-2.1.C).

The public working group discussions focused on the need for targeted improvements to accomplish these objectives. The existing zoning creates confusion and frustration for both property owners and neighbors, and it is inadvisable to create a “one-size-fits-all” system for the entire city. Several working group members expressed satisfaction with the intent and focus of the current use of overlays to achieve a “micro-zoning” framework, but many also recognized that current methods of applying overlays to base zone districts can be an additional source of confusion.

How would it Work

The proposed solution to the issues identified above is a system where zone districts are directly customizable rather than only changeable through the use of overlays. The components of existing overlays would be added to the existing residence zones in those areas and made available as items that any neighborhood could set to guide allowed development in their area. This would allow the same types of changes achievable through an overlay, but through a standardized system that allows faster, more specific, and more targeted changes to the zoning in residential neighborhoods.

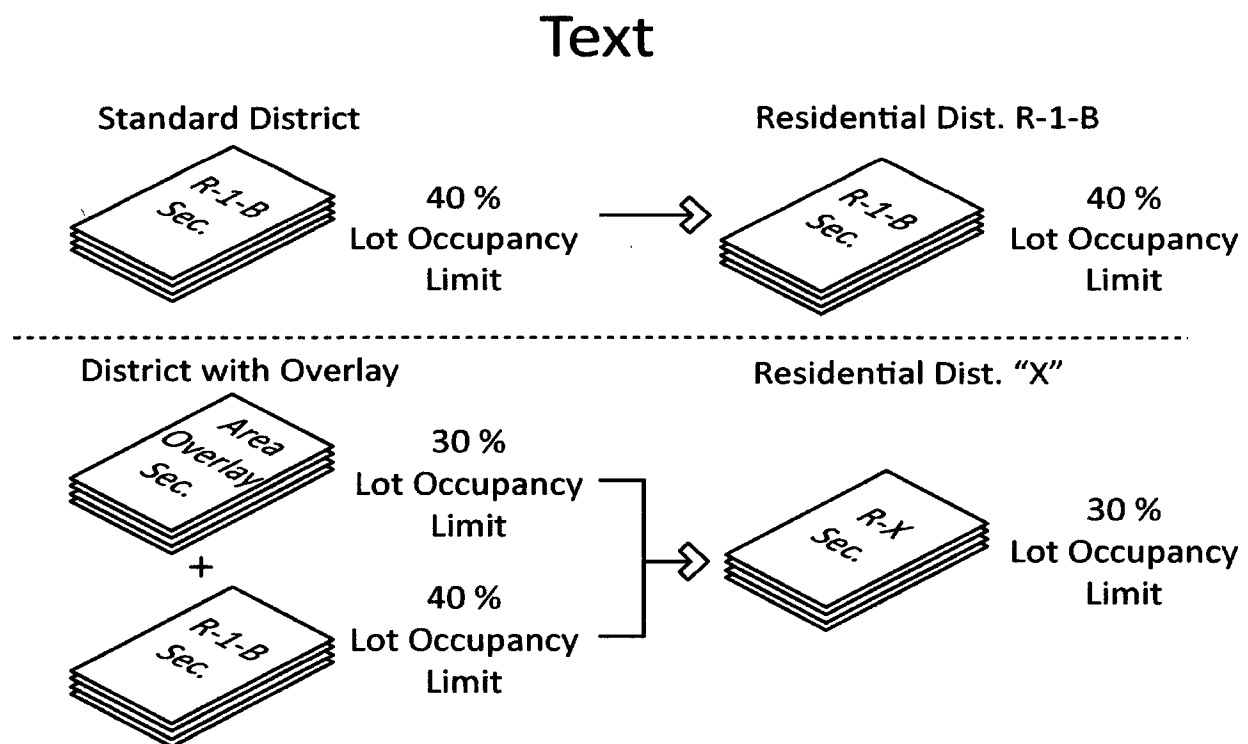


Figure 1: Simplification of Zoning Text

A system of customizable local zones would not involve any immediate changes to the bulk or density limitations or the remapping of particular neighborhoods. The bulk and density standards of each existing zone (i.e. R-1-A, R-1-B, R-2, etc.) will remain the same. Existing overlays would be transferred into the system with their unique bulk and density standards. The template would not necessitate any change to the standards of particular neighborhoods, but would allow for faster, easier local input into the existing process.

Once the new template is in place, an area would have to initiate a rezoning process in order to change the standards of their existing base zone and/or overlay. This process is projected to be approximately one year shorter than the current overlay process because of the standard template of overlay elements that will be available to all neighborhoods, rather than having to initiate an entirely new overlay. This standard template with customizable pieces also contributes to the equity of the overlay process, making the same tools available to all neighborhoods in the District.

Mapping

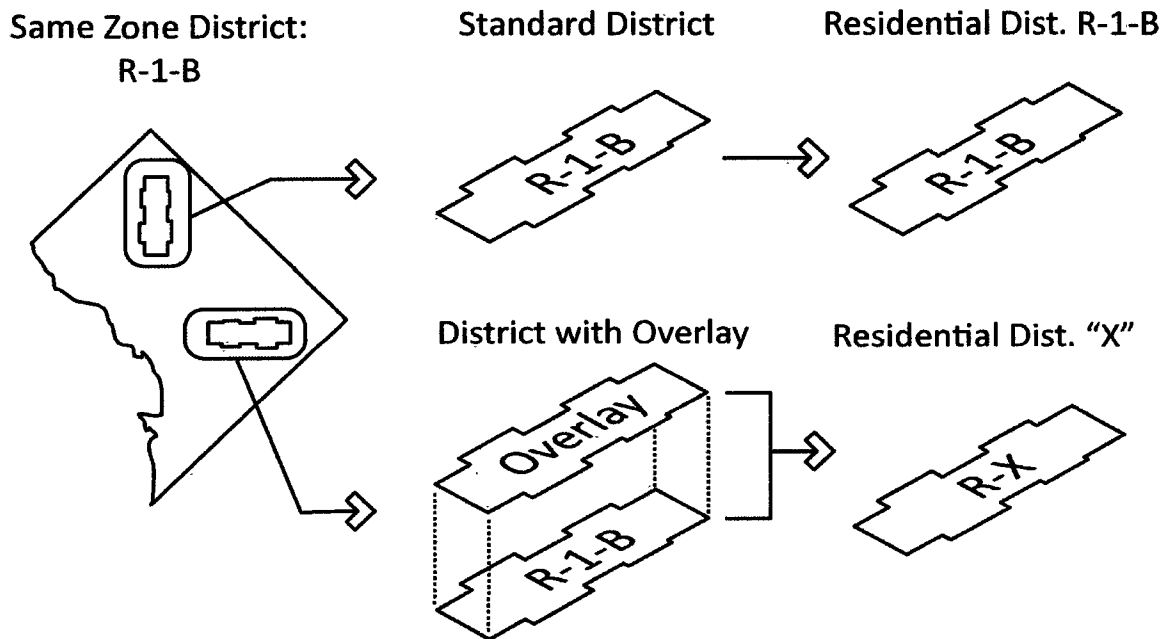


Figure 2: Simplification of Zoning Map

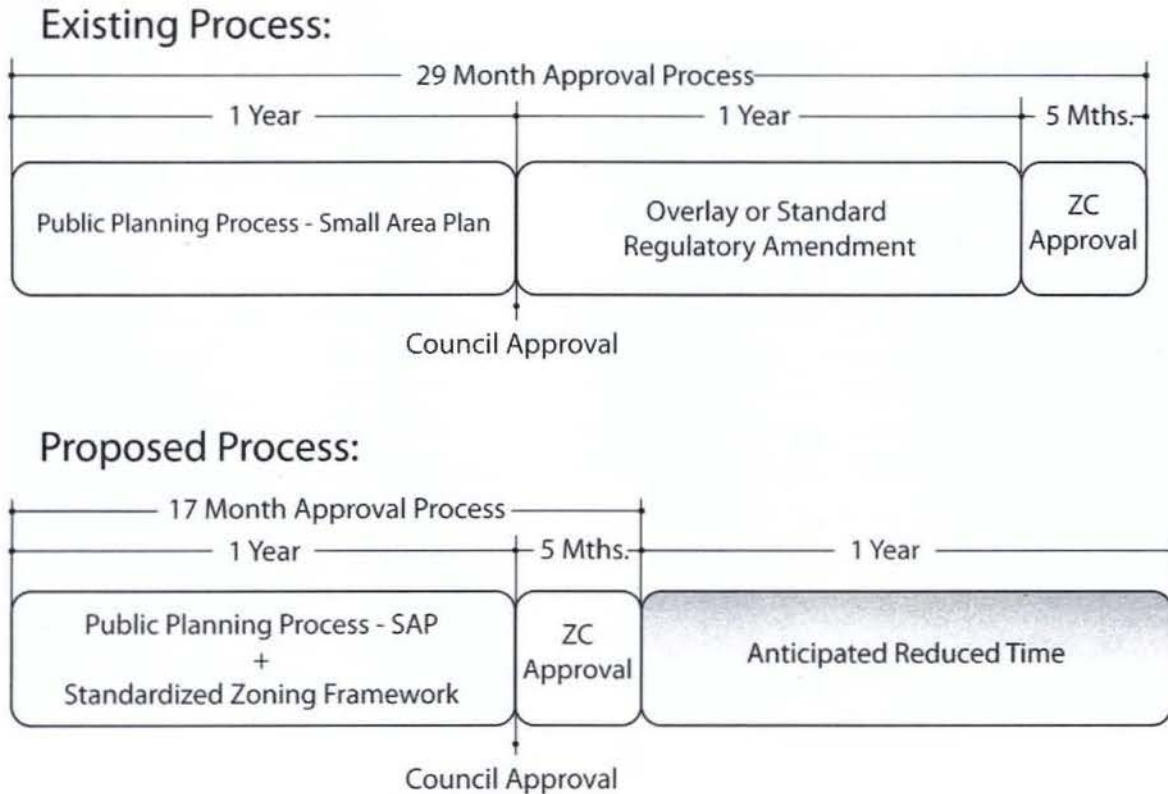


Figure 3: Draft Proposed Timeline and Process

Recommendation 1

Create a generalized template for residential area and use requirements applicable separately to all Low Density (i.e. detached & semi-detached) zones and Moderate Density (i.e. attached) zones.

Approve text for specific optional tools to add protections developed from existing overlays, such as tree and slope, or concentration limits on non-residential uses.

After the effective date of the general template provisions, individual neighborhoods may petition the Zoning Commission for the creation of a customized zone that would consist of either:

- 1. Customized modifications to the general template; or**
- 2. Adding one or more specific tools to the general template; or**
- 3. A combination of the two.**

Each customized zone would be a residential stand-alone district.

Recommendations 2 through 8 – Area components of a customizable template

These recommendations comprise customizable area standards within the zoning templates and contain new definitions for building standards that would apply to all residential zones and be customizable on a local scale. Each of these components may be customized to a particular neighborhood.

2. Height

Existing Practice

Currently, height in low density neighborhoods is measured in feet to the ceiling of the top story. The height for all low density neighborhoods is set at three stories and forty feet.

Issues

By measuring height only to the top of the ceiling, the existing regulations allow for unlimited height above the top ceiling as well as necessitate a limit on the number of stories which has led to confusion and litigation over definitions of “top story,” “attic,” “basement,” and “ceiling.” This has resulted in instances of pop-up structures and neighborhood battles about the application of story measurements where attics and basements are involved.

Recommendation 2

Height maximums should continue to be measured in feet; however measurement should be to the top of a flat roof or the mid-point of a sloped roof as shown below. This would remove the need for a separate measure of stories. Height’s bottom measuring point is drawn from the Height Act’s interpretation of the base of the building.

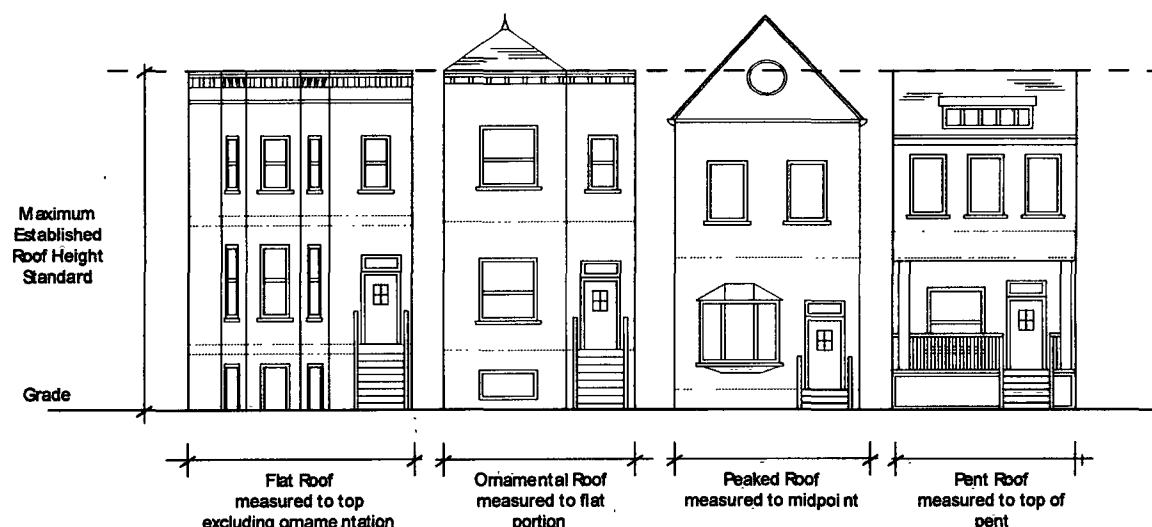


Figure 4: Measuring Height for different roof types

Discussion

This recommendation would simplify the measurement of height in low and moderate density residential areas. Currently, height in these zones is measured to the ceiling of the top story. In the diagram above, each of these houses could have different heights based on where the ceiling was placed. Moreover, the two houses on the right would be subject to determinations of whether the tops of the buildings were “attics,” “mezzanines,” or “stories,” which would have further impact on the height measurement while having nothing to do with the actual height as seen from the street. The OP recommendation would measure height to the top of the building with allowance for roof features or peaked roofs. This proposal would allow for simplified height measurement in a way that is most meaningful to the character of surrounding properties, and when accompanied by a removal of story designations, would greatly simplify administration and enforcement.

3. Front Yards

Existing Practice

There are currently no zoning regulations for front yards, however some areas of the city are subject to building restriction lines established through deed restrictions. The area between the lot line and building restriction line is regulated as public space. In addition, many residential buildings end at the front property line, but well short of the sidewalk. The space between the front property line and the beginning of the planned or actual sidewalk is “public parking” which- is part of the public space, but under the care of the abutting property owner. Ironically, automobile parking is not allowed in the public parking area.

Issues

Many areas of the city that are built with uniform front yard lines through design or coincidence but there is not a regulation in place to assure that new construction follows the existing pattern. This can greatly impact residential character when new construction is built such that new structures extend in front of the established building line thus breaking an existing street wall.

Recommendation 3

Front yard setbacks should be available as tools for local residential neighborhood zones. Front yard setbacks for new buildings would start no further forward or back than any existing building on the same block face based upon on the characteristics of existing buildings.

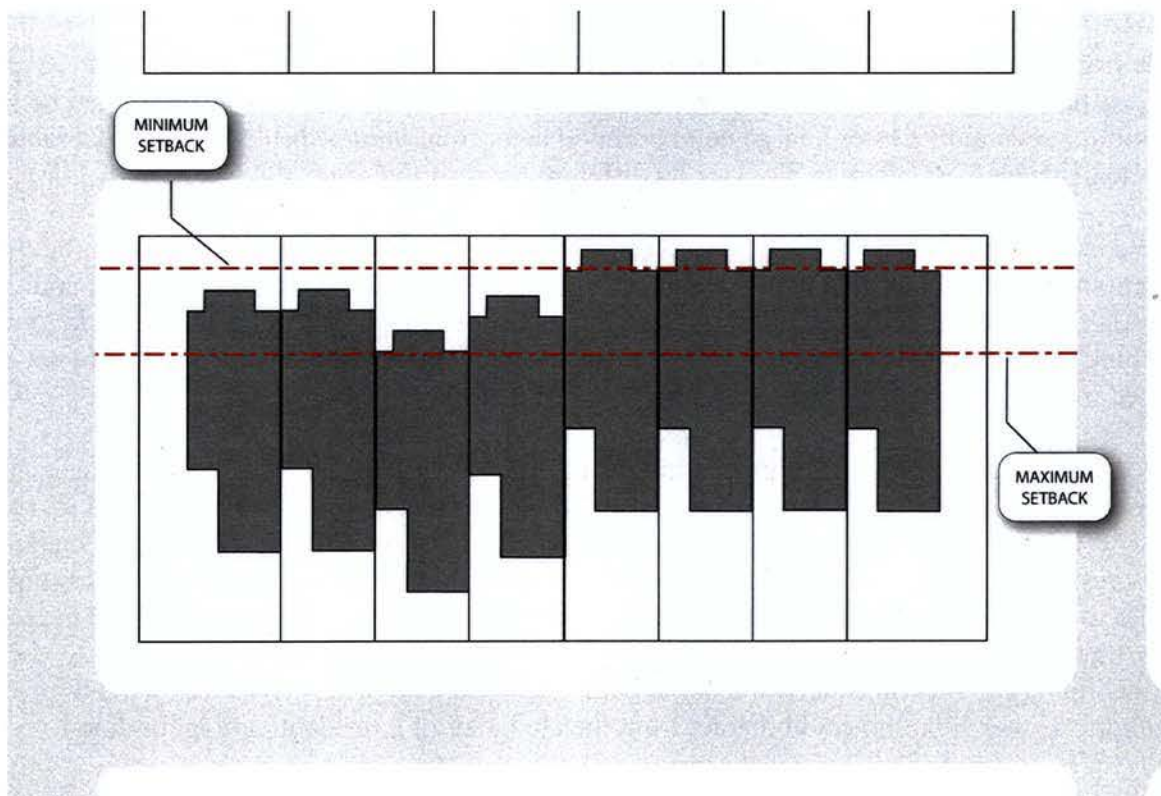


Figure 5: Potential range of minimum or maximum setbacks

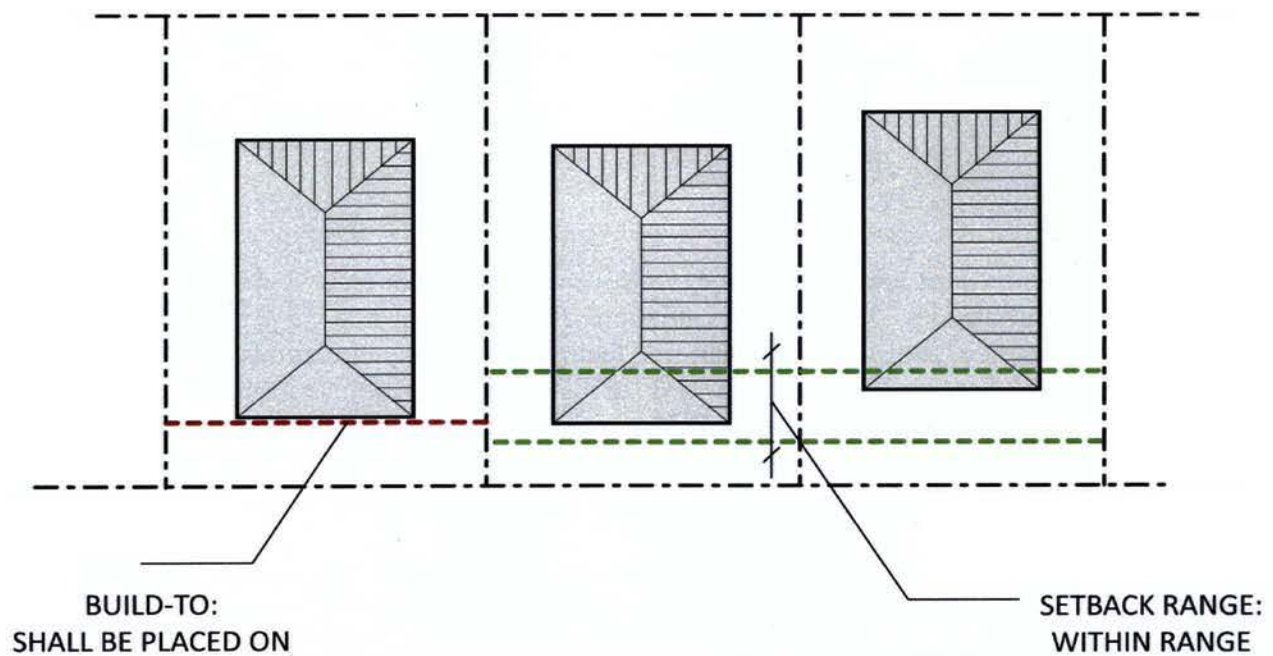


Figure 6: Potential range of min. or max. setbacks or build-to lines

Discussion

While front yards are often a neighborhood defining element, there is no current zoning mechanism for ensuring their maintenance. Unlike other characteristics, which can often be uniform for several blocks or a large neighborhood area, front yard setbacks are more variable and often change from block to block or on different faces of the same block.

In the context of this discussion, front yard setbacks refers to the distance between the property line and the building line. There is often an area of “public parking” between the house and the sidewalk that is in public space, but maintained by the property owner. Such public parking may constitute all or part of a front lawn. These areas are not regulated by zoning and would not be counted in any measurement of front yard as defined in zoning.

Office of Planning research has shown while there is general consistency of front yard setback within block faces, the majority of residential buildings in D.C. are *not* built to the front lot line. Based on OP’s citywide study of residential neighborhoods, approximately 80% of the single family residential structures are setback from the property line. Two thirds of rowhouses (66%) and the vast majority of detached homes (92%) are setback. With no current regulation of front yards, there are many areas where a new house could extend forward further than the surrounding group or, conversely, the home could be setback significantly more than its neighbors. Either situation could detract from the character of a residential neighborhood.

Based on OP analysis of existing conditions throughout the city, the most equitable way to regulate front yards would be to base the setback or build-to line on the setbacks of existing buildings on the same block face. This would mean that new buildings could start no further forward or back than any existing building on the same block face.

4. Side Yards

Existing Practice

Currently, when side yards are required, they must be a minimum of eight feet in all residential districts throughout the city. The current regulations allow existing side yards between five and eight feet to be extended, but yards less than five feet may not. The regulations have conflicting guidance on whether non-conforming side yards in historic areas may be eliminated to create rowhouses and there has been inconsistent BZA precedent¹ concerning whether one-family semi detached dwelling can be converted to row dwelling through the elimination of a side yard.

Issues

The existing side yard standard does not represent existing characteristics of most of the city’s neighborhoods. It does not allow a complimentary building to be built in a neighborhood with less than eight foot side yards or with uneven side yards. The lack of ability to extend many existing side yards to the rear leads to a large number of variances. Finally, there is a lack of

¹ See District of Columbia Board of Zoning Approval Appeal No. 16811 and Appeal No. 16935.

clarity of the rules for side yards in historic areas including rules about the elimination of historically existing side yards.

Recommendation 4a

For detached homes, the standard should change from a rigid side yard measure to a measure of the ratio of building width to lot width (shown below). It would still be appropriate to maintain a minimum yard on each side, but the two side yards could be of a different width as long as the aggregate ratio is met.

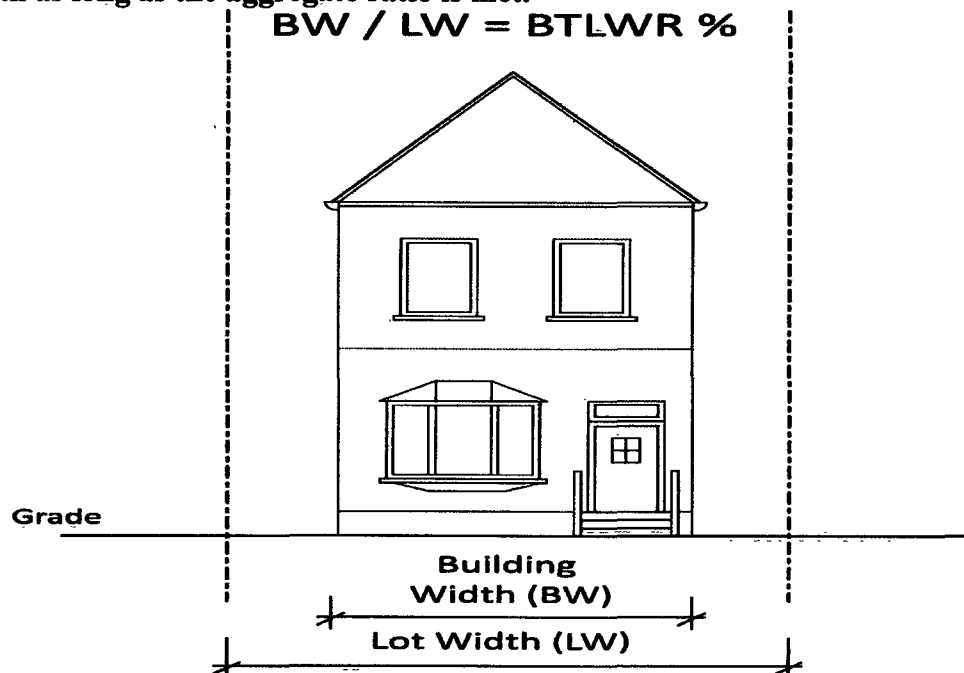


Figure 7: Building to Lot Width Ratio

Recommendation 4b

Allow buildings to expand to the rear, maintaining existing non-conforming side yards.

Recommendation 4c (Replaced by Recommendation 6c)

Original Recommendation: *In historic areas, do not allow the reduction or elimination of side yards below the minimum standard, even to create an otherwise allowed rowhouse.*

Discussion

A thorough study of residential side yards around the city showed that there is no regularity to the separation of buildings from one another or to the width of their side yards. A standard eight foot requirement for side yards does not promote building location on infill lots that would complement the character of most existing neighborhoods. One method of establishing complementary side yards between new construction and established character would be to allow side yard requirements to vary by local area, however this could be too localized and area-specific to effectively regulate.

The study of side yards performed by OP showed that there is a high degree of regularity across the city in the ratio of a building's width to the width of its lot. These results indicate that compatible infill houses may be more simply and effectively assured through regulation of a maximum Building to Lot Width Ratio (BLWR). Such a standard would ensure that infill structures would be relatively consistent in their placement on their lots compared to similarly situated buildings.

The study shows a consistent average across the city of 70% BLWR with a very low deviation. Adoption of this standard, for example, would assure that R-1-A lots maintained two side yards that added up to 22.5 feet and R-1-B had two side yards that added up to 15 feet even if both sides were not equal.

To assure a minimum level of compliance in terms of separation from lot lines it is also recommended that a minimum standard for side-yards be established. This standard would ensure a minimum separation for passage and maintenance regardless of where the building is located between the maximum BLWR. The minimum yard should be adequate for human passage and proper building maintenance.

Recommendation 4b is the result of discussions in the Historic Preservation Working Group. Recommendation 4b would allow for the expansion of all residential structures along existing non-conforming side yards. The current regulations include side yards less than five feet in the lot occupancy calculations and do not recognize these small open areas as open space. The current regulations also prohibit the matter-of-right extension of side yards less than five feet. This has resulted in property owners choosing to fill in the areas rather than apply for zoning relief. Recommendation 4b would remove the incentive to fill in non-conforming side yards as a way to avoid zoning relief.

As originally advertised, Recommendation 4c would have protected existing side yards along historic detached and semi-detached structures from being filled in to create row structures. This protection is important in the existing ordinance because there is a higher lot occupancy limit in the R-3 and R-4 zones for rowhouses than for other residential uses. Rowhouses, by definition do not have side yards, thus by converting a structure from a detached or semi-detached structure, which have a 40% lot occupancy limit in the R-3 and R-4 zones, a property owner can increase achievable lot occupancy to 60% as a matter of right.

Based on Taskforce and public comments, OP has changed this recommendation to address the underlying lot occupancy issue in all R-3 and R-4 areas rather than just protecting side yards in historic areas.

5. Courts

Existing Practice

Although not required, when provided, courts must have minimum width and area requirements based on type and height. In addition, the ordinance provides for allowed but undefined court niches.

Issues

Expansions of existing non-conforming courts require variances. This provides a time and process incentive to fill in existing courts rather than preserve them which can affect building and neighborhood character. This can also hinder the design of buildings and create unnecessary variances.

Recommendation 5

Remove current court width and area requirements. Existing courts could be extended at their current width without a variance.

Discussion

The existing court requirements were created in 1958 as a light and air standard. The majority of residential courts created prior to that time did not meet the area and width standards and are considered non-conforming. Since the date of the original regulations, building code standards have evolved to provide light, air, and fire protection standards for all buildings. With the original purpose of the court requirements being supplanted by modern building codes, the main impact of the requirements has been a need for variances on court expansions. Since 2001, 12% of all variance cases have requested relief for court area or width in low and moderate density residential zones. Based on this information, OP recommends removing the requirement for minimum court area and width. This would lead to more retention of existing non-conforming courts by removing the incentive to fill them in to avoid a variance procedure. Finally, the removal of court requirements would remove the need to distinguish between courts, which currently have requirements, and court niches, which do not.

6. Building Area (Lot Occupancy)

Existing Practice

In addition to any mandatory open yards, a building's footprint is currently controlled through the measurement of lot occupancy. The maximum building area is limited to a percentage of the total lot area.

Issues

In a city with DC's residential development pattern, lots within squares are rarely uniform while the buildings generally are. This pattern results in wide varieties of lot occupancy among neighboring buildings. The most common consequence of this variety is evident in the smaller lots that cannot be built on as a matter-of-right with the same size and shape of house that is

standard on the rest of the block. Since 2001, nearly 20% of all variance cases included relief requests for lot occupancy in R-1 to R-5-B zones.

Existing lot occupancy provisions result in two other problems. First, including narrow courts and side yards in lot occupancy calculations can encourage elimination of these features by filling in the area. Second, in the R-3 and R-4 zones separate lot occupancy limits for detached/semi-detached (40%) and rowhouses (60%) encourages the elimination of side yards so a detached/semi-detached dwelling can meet the definition of a rowhouse, thus avoiding variance requests while simultaneously gaining more lot occupancy.

Recommendation 6a

Each low to moderate residential zone should have a minimum matter-of-right building footprint regardless of lot size. Lot occupancy limits would continue to apply for buildings larger than the minimum matter-of-right footprint.

Recommendation 6b

Exclude narrow courts and non-conforming side yards from building footprint and lot occupancy calculations. New additions in these areas would count toward lot occupancy.

Recommendation 6c (New recommendation based on TF comments)

Rowhouse districts should have a single lot occupancy limit for residential structures rather than separate limits based on building type.

Discussion

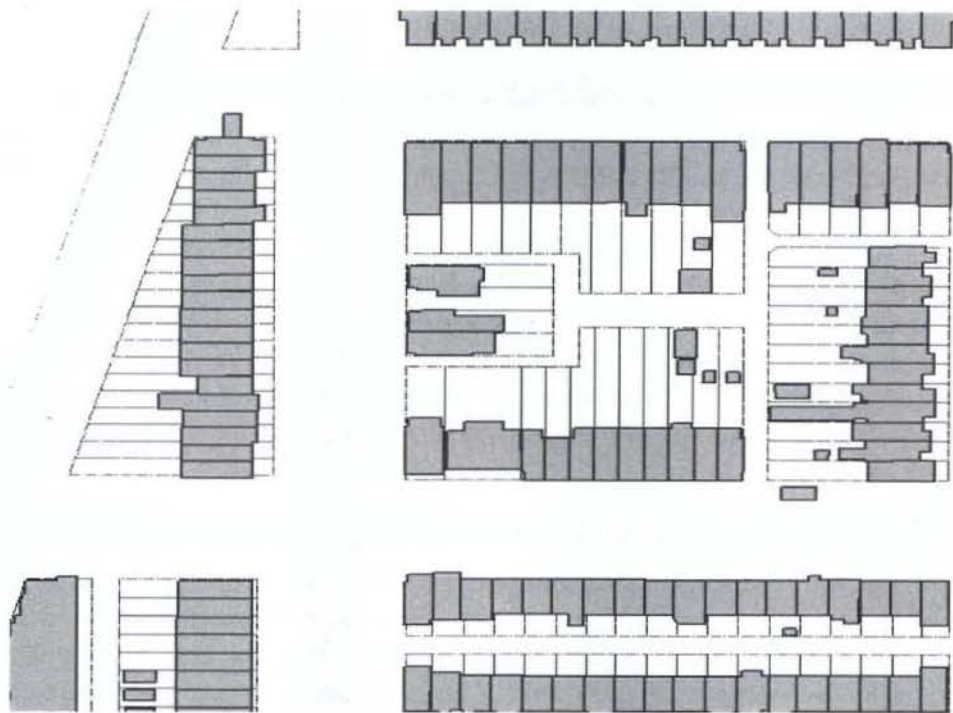


Figure 8: Discrepancies in Lot Occupancy on a block by block basis

The figure above shows several examples of the difficulty in relying on lot occupancy as an indicator of neighborhood building type. The block on the far left contains buildings that are generally uniform in footprint. However, lot occupancy on this block ranges from over 95% at the north end to less than 30% on the south end. The block in the center also shows much more regularity in the size of buildings than in the size of lots so that lot occupancy varies between 30% and 80%. Finally, the block on the bottom shows buildings that have a similar footprint as others in the figure, but cover around 75% of their very short lots.

A very noticeable impact of the current use of lot occupancy is the number of variance requests for construction or addition on smaller lots. Almost 20% of all variance requests are for lot occupancy on low and moderate density residential lots and the majority of those are on substandard lots. Generally, these are cases of buildings that fit exactly with the pattern of the neighborhood, but because of the variation in lot size, cannot build what their neighbors have as a matter of right.

A solution to this problem is to allow a minimum building footprint for any house in the neighborhood based on the characteristics of the homes in the area. For example, in an area where the building footprints are generally 1200 square feet, a lot would be entitled to a 1200 square foot building footprint even if the lot was smaller than the standard lot size due to the layout of the block.

The minimum footprint proposal would not limit the right of anyone with a larger lot from developing a larger building based on the existing lot occupancy standard. The maximum footprint of buildings would be the greater of the allowable footprint or the lot occupancy.

Based on the Lewis Plan, lot occupancy limits were originally implemented to preserve open space in residential areas. They are still useful and should be maintained for that reason. The proposal would only impact the smallest lots where open space is minimal and is outweighed by character issues and the number of created variances.

Recommendation 6b would remove narrow side yards and courts from the calculation of lot occupancy. As discussed in Recommendation 4 above, there is an incentive in the existing regulations for homeowners to fill in existing side yards and courts since they already count as lot occupancy by definition and would not therefore require a variance to add space to the building.

Recommendation 6c is in response to many of the public and Taskforce comments received regarding side yard and lot occupancy. By having a 60% lot occupancy limit for rowhouses and a 40% lot occupancy limit for other residential uses, the ordinance creates an incentive for additions that eliminate any side yards. The recommended solution would be to have a uniform lot occupancy limit for each zone. OP will conduct analysis of existing conditions to help the Commission determine the appropriate standard for lot occupancy in these zones. After adoption of the ordinance the standard could then be set locally for each customized zone.

7. Rear Yards/Building Depth for Row Dwellings

Existing Practice

Rear yards are required to be a minimum of 25 feet in the R-1 zones and 20 feet in the R-2 through R-4 zones.

Issues

In rowhouse areas, the existing development pattern is not supported by standard rear yard provisions since the depth of lots varies greatly within blocks across the city. As with lot occupancy, this can create variances or impact the neighborhood character on lots that are substandard in size.

Recommendation 7

Rowhouses should have a matter-of-right depth by which they may extend into a lot, even if it would result in the reduction or elimination of a required rear yard.

If an area remains between the rear of a rowhouse and the rear property line that is less than the minimum rear requirement, it shall satisfy the rear yard requirement.

Discussion

As with lot occupancy, the buildings in Figure 8 demonstrate the need in row house areas for a minimum standard size for a building when the lots are cut short by diagonal streets or odd alley layouts. OP recommends a similar solution to the one for lot occupancy. Row house buildings should have an allowable building depth based on the local building form that is achievable regardless of lot depth. This would allow infill to match the existing building characteristics and avoid unnecessary variances.

Also as with lot occupancy, for lots deeper than standard the allowable building depth would not limit development up to the existing required rear yard. Each building would be limited to the greater of the allowable building depth or the rear yard measurement.

8. Residential Density

Existing Practice

R-1 through R-3 zones permit only one unit per lot. R-4 permits two units as a matter of right, and more if in a converted structure subject to lot area requirement. R-5-A allows three or more units by special exception while the remaining zones permit multi-family dwellings (3 or more units) as a matter of right.

Issues

There is limited opportunity for variety of unit counts in existing low to moderate residential zones. Residential zones in D.C. can have a one- or two-unit maximum per lot or no maximum, but not a 3-, 4-, or 6-unit maximum. Many R-5 areas of the city have established rowhouse character that is compromised by the ability to build large apartment buildings of unlimited units, while some R-4 areas of the city have the space and the desire for three or more unit buildings. The existing zones are either too limited or provide no unit limits to protect the character of these areas.

Recommendation 8

Maintain the existing unit densities for existing zones, but allow new customized Low and Moderate Density residential districts to set different standards that are area-appropriate and are not inconsistent with the Comprehensive Plan.

Discussion

Protection of existing neighborhood character in the city is hampered by the lack of flexibility in the existing moderate apartment zones (R-5-A and R-5-B). In many cases, rowhouse areas zoned R-5-B should appropriately be limited to four or six units, while many areas zoned R-5-A have a single family detached character that is threatened by the unlimited unit count. Many R-4 areas of the city have the room and the desire for three unit buildings. Current regulations provide no ability to customize the zones R-4 and below while also providing no density protection to areas zoned R-5-B that have well-established rowhouse character.

This recommendation would result in the ability to customize new low and moderate residential zones that more easily bridge the transition from the one- and two-unit zones to the unlimited units permitted in the R-5 apartment zones. It would allow the potential for new apartment zones with specific unit limits to recognize unique character of rowhouse areas identified within the Comprehensive Plan. It would allow future planning processes to base unit density on the characteristics of a neighborhood rather than the limited choices that now exist.

Recommendations 9 through 14

Recommendations Nine through Fourteen are general policies related to the residential zones.

9. Subdivision and Lot Size

Existing Practice

New subdivisions in low and moderate density zones are dependent upon meeting minimum lot area requirements, which are based upon the type of structure being built or use established (i.e. detached, semi-detached, attached, public school and other non-residential structures such as places of worship). Lot size standards also apply to infill of existing lots. Section 401 of the Zoning Regulations allow the replacement and addition to buildings is permitted on certain substandard lots, depending upon the extent of nonconformity.

Issues

The existing system seems to be the best way to determine lot area and width for new lots, but applying the same standards to preexisting lots can limit infill construction in areas that do not meet lot standards. Existing areas with substandard lot sizes for their zone classification are saddled with variance requirements to build or expand.

Recommendation 9a

Continue to regulate lot area and width standards by type of structure for the creation of new lots.

Recommendation 9b

Allow minimum matter-of-right construction on existing lots that are not being further subdivided.

Discussion

The current regulations (Chapter 4) establish the allowable lot size based on the type of building. OP would recommend maintaining and consolidating existing standards into one section for ease of use in the creation of new lots.

There are many legally existing lots that do not meet the minimum lot size standards for their applicable zone districts. OP recommends that minimum matter-of-right construction be allowed

on existing lots that do not meet current standards. All new or changed lots would be continue to be subject to existing lot size standards.

OP is currently studying the number of sub-standard lots within low and moderate density zones and expects to have further information to present on the impact of this recommendation at the public hearing.

10. Permitted uses.

Existing Practice

Residential districts are regulated by lists of uses that are allowed as of right or by special exception. Most non-residential uses are tightly limited to those customarily seen in residence districts, such as schools and churches. Uses are limited by existing lists rather than their impacts on the surrounding area.

Issues

Current regulations limit flexibility for local neighborhoods to allow for a wider variety of home occupations, neighborhood serving uses including corner stores, or other non-residential uses that would promote a walkable city and healthy lifestyles.

Recommendation 10

Establish strict baseline limits for matter-of-right non-residential uses in each residential zone.

Discussion

The Commission has given guidance that it would like to see text that addresses the impacts of uses in zones. It is therefore, necessary to strictly control the establishment of retail, service, institutional, and office uses (including home occupations) through performance measures. A baseline of performance measures should be established for low density residential zones and another for moderate density residential zones setting maximums for impacts on the surrounding area. Above this baseline, performance measures that apply to each category could be customizable to meet the needs of particular neighborhoods (i.e. hours of operation, maximum GFA, etc.).

The controls could initially be set very strictly to replicate existing limits, including limitation to home occupation only in low density areas and only slightly more permissive in moderate density areas. Local residential neighborhoods would then have the flexibility through the small area planning process to allow for limited non-residential uses. These uses would be controlled and regulated by impact through performance measures as described in the broader discussion of uses as part of the Retail subject area.

Many residential areas of the city were historically built with a strong presence of neighborhood retail and service uses. Ward One has over 150 legal commercial uses in R-1 to R-5-B zones.

The Capitol Hill area has over 100. All of these are non-conforming and could not be replaced if discontinued for three years. As the city strives to promote more local food availability, walkable neighborhoods, reduced reliance on the automobile, and healthy urban environments there will be increased demand for corner stores and home businesses that allow for sustainable living.

Moreover, the existing home occupation regulations have a very limited list of possible home occupation uses. As traffic increases and technology evolve, there will be increased pressure and opportunities to telecommute and to do an increasing amount of work from home. There is a need to allow and promote a wide variety of home occupations and allow some local customization of the standards.

The appropriateness of an area for such neighborhood uses would be determined on a local basis by small area plan, with reference to the Comprehensive Plan and historic preservation constraints.

11. Accessory Buildings

Existing Practice

An accessory building is typically a garage, shed, carriage house, or artist studio and only in the R-1 zone may it be used for the residence of domestic employees. Accessory buildings are allowed in residential districts and are limited, along with the principal building, by an overall lot occupancy calculation.

Issues

If Recommendation 6 is accepted, buildings on substandard lots will be allowed to achieve a minimum footprint regardless of lot size. These buildings on small lots would not be subject to lot occupancy and would therefore no longer have an available permitted envelope for accessory buildings. There would be a need to accommodate accessory structures on these smaller lots.

Recommendation 11

Provide a matter-of-right square footage allowance for accessory structures on small lots. Structures above the matter-of-right standard would continue to be subject to lot occupancy limits meaning that the combined total of primary and accessory buildings would be calculated as lot occupancy.

Discussion

OP recommends that each residential lot utilizing the building footprint allowance rather than lot occupancy (see Recommendation 6) should be provided with a matter-of-right square footage allowance for accessory structures separate from lot occupancy. To exceed this allowance, both the main building and the accessory structure would have to meet the lot occupancy limitation in the traditional way.

Under this recommendation each lot would either have 1) a total lot occupancy limit for all buildings; or 2) two footprint allowances, one for the main building and one for an accessory building.

12. Non- Residential Uses of Historic Institutional Buildings

Existing Practice

Except as provided in Section 222, new uses in historic institutional buildings are subject to the same special exception and variance standards as new building construction.

Issues

Often unused institutional buildings (schools, churches, etc.) are unsuitable for uses permitted in their residential zones. They are often too large for single family homes or flats, yet the zone district may not allow apartments. Historic designation protects these buildings from demolition and the Comprehensive Plan calls for adaptive reuse of these structures (HP.2.4.1). In order to effectively use these buildings, owners are often required to get multiple variances.

Recommendation 12

Allow adaptive reuse of historic institutional buildings. Conditions would be put on the impacts of new uses in these buildings that would allow development as either matter-of-right or special exception.

Discussion

Historic institutional buildings should not be left in disuse if the original use ceases. The regulations should allow, through special exception or matter-of-right, the opportunity to reuse the buildings for government offices uses and other uses that are compatible with residential neighborhoods. Approval of this recommendation would simplify the path for adaptive reuse of these buildings and encourage limitation of negative impacts by offering a matter-of-right option.

13. Residential Units in Multiple Structures

Existing Practice

In residential zones, the use of a second structure as a residential unit requires zoning relief, even in zones that permit apartment buildings.

Issues

For lots that allow more than one unit (i.e. R-4 and above), there is no matter-of-right way to use an existing carriage house or build a second unit unattached to the main building. This results in the need for multiple variances or the creation of artificial building connections.

Recommendation 13

Allow permitted units to be located in a second residential structure on the same lot in those zones that allow two or more units.

Discussion

As a matter-of-right or special exception as appropriate, OP recommends allowing the establishment of allowed residential units with appropriate access. This will allow for the adaptive reuse of existing carriage houses while also providing a source of affordable housing. These units would count against the total number of units allowed on the lot the same as any secondary unit.

As shown in the graphic below, there are areas of the city with established carriage house character. In Capitol Hill alone, there are well over 2000 alley buildings. This recommendation would promote adaptive reuse of many of these structures and would allow the creation of new structures where determined appropriate based on access and utility availability.

In addition, allowing the second unit to be located in a second structure would promote the retention of entire rowhouses as larger units for family housing.

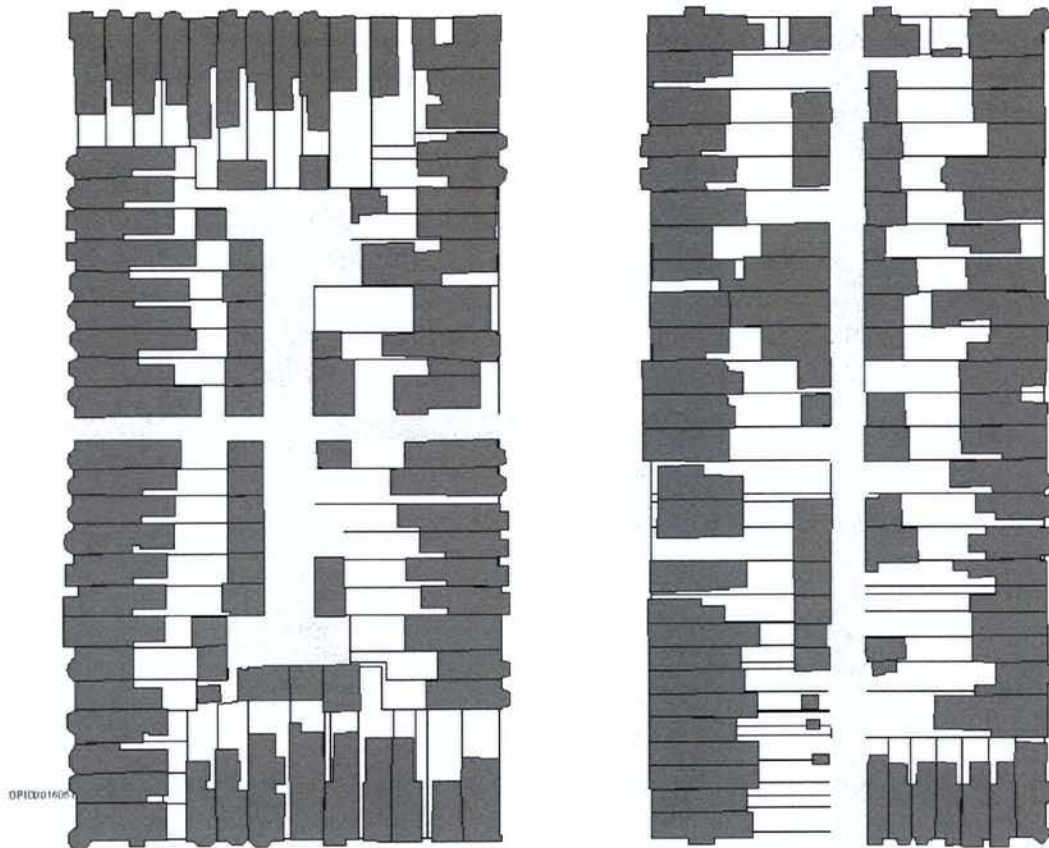


Figure 10: Carriage Houses

Remaining Issues

OP will study the characteristics of alleys that can support residential units in order to define what alleys would be appropriate for the application of this recommendation.

14. Waiver for Loading for Historic Structures

Existing Practice

Parking and loading requirements may be waived for historic structures and most additions to historic structures. Parking is required for additions over 50% of the gross floor area of the original building. Loading requirements may be fully waived regardless of the size of the addition.

Issues

In 2007, the parking regulations were updated to clarify parking requirements for large additions to historic structures. The loading standards were not updated to match the parking standards for additions to historic structures. This leaves the existing regulations unclear and allows for the potential to construct large new buildings without loading where they can connect to an existing historic structure.

Recommendation 14

Update loading standards for additions to historic structures to match parking standards.

Discussion

OP recommends that there be a similar threshold test for the requirement of loading for additions to historic structures as was adopted for parking requirements. This would mean that additions to historic structures that are over 50% the gross floor area of the original structure would have loading requirements based on the area of the addition. The requirement would only apply to the addition; the original structure would never have a loading requirement regardless of use change.