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Zoning Commission
441 4th Street NW Suite 200-S
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RE: Zoning Regulation Rewrite (ZRR) Rulemaking Case 08-06A, B, C, etc.
Comments invited through September 25, 2015

I am Advisory Neighborhood Commissioner for ANC3B01 North Glover Park-Cathedral Heights. Our ANC adopted a resolution on the proposed ZRR three years ago (attached), supporting the modifications in zoning regulations applying to accessory dwelling units, corner stores, parking requirements, and credits for transportation demand management. The ANC particularly appreciated the considerable work the Office of Planning did to present the specific changes that would apply to our own neighborhood. Most of the provisions on which the ANC offered comments in the earlier years are still in the ZRR presented for comment this year. The current ANC members do not find any substantive reasons to alter the ANC's previous positions supporting the goals of the ZRR and particularly those provisions.

As an individual, I reviewed the ZRR in greater detail and would like to offer a few comments on my own about sections of importance to our community and to the interests of the city as a whole. Thank you for this opportunity to comment, and the many other avenues you have provided for getting information and providing input on this commendable initiative to update the city's zoning regulations.

Subtitle C General Rules | Chapter 7: Vehicle Parking

ANC3B's resolution adopted February 21, 2013, noted the benefits of the proposed ZRR provisions that would modify required vehicle parking minimums, provide incentives for car sharing, allow for bike parking requirements, and maintain existing parking minimums for large apartment buildings outside transit zones so the proposal would not adversely affect the availability of street parking.

Along with others in my ANC, I have paid particular attention to whether the corridors eligible for reduced parking minimums would include Wisconsin Avenue through the Glover Park commercial district and adjoining parts of Cathedral Heights. We support reducing the requirement for large developments to provide huge numbers of parking spaces under the building or in above-ground parking lots if the buildings are located close enough to frequent, reliable public transit services to provide commuter and residents high quality alternatives to using private motor vehicles. I also agree with the ANC3B resolution that it is important to maintain minimum parking requirements for apartments and other buildings that do not have access to high frequency/high capacity public transit. We have not been certain which corridors the Zoning Commission would include in the provisions related to transit corridors. Now that the final rulemaking is approaching, I would like to offer my comments. I am trained as a transportation planner and have worked more than 15 years in policy positions at the U.S Department of Transportation. I hope my comments will be helpful.

The ZRR currently open for comments includes Wisconsin Avenue NW through our area among the Metrobus corridors where the minimum parking requirements shall be reduced by fifty percent (50%) from the levels listed in Table C § 701.5 (on pages C-33 and C-34). Those corridors are also shown in the map distributed by the Office of Planning dated August 28, 2014, under the title “Parking Requirements for Apartments (Multi-family housing with five or more units) Setdown Text (Sept 2013) Compared to Current Zoning” [parkingreqsetdownletter.jpg](#)

702.1 Within any zone other than an R or RF zone, the minimum vehicle parking requirement identified in the table of Subtitle C § 701.5 shall be reduced by fifty percent for any site which is located:

- (a) Within one-half mile (0.5 mi.) of a Metrorail station that is currently in operation or is one for which a construction contract has been awarded; or
- (b) Within one-quarter mile (0.25 mi.) of [sic] streetcar line that is currently in operation or for which a construction contract has been awarded; or
- (c) Within one-quarter mile (0.25 mi.) of one (1) of the following Priority Corridor Network Metrobus Routes located entirely or partially within the District of Columbia, provided that the property is on a street on which participation in a District Residential Parking Permit program is not permitted, or is otherwise exempted from a District Residential Parking program:

- (1) Georgia Avenue/7th Street (Routes 70, 79);
 - (2) Wisconsin Avenue/Pennsylvania Avenue (Routes 31, 32, 34, 36, 37, 39);
- ZC Proposed Action, Dec. 2014 Subtitle C-37

The selection of Wisconsin Avenue for inclusion in that provision is based on the designation of Wisconsin Avenue/Pennsylvania Avenue in WMATA’s Priority Corridor Network (PCN), first identified about 10 years ago as part of a strategy to improve Metrobus service in important corridors of the city.

In my own ANC serving Glover Park and Cathedral Heights, we are not served by Metrorail; the nearest Metro Station is at least a 20- to 30-minute walk from even the closest parts of our community, via routes that involve going up one or more hills. Therefore for public transit, we rely primarily on Metrobus. Along Wisconsin Avenue, Metrobus has been running buses north and south to Friendship Heights or to downtown every 15 minutes during weekdays, about every 5 minutes in rush hour, and every half an hour on weekends, through most of the day. That is better service than many areas of the city have, but the Wisconsin Avenue buses do not provide good access to many places of employment or school or medical centers which are not on the Wisconsin Avenue/Pennsylvania corridor but in other parts of the city or region. Most of the buses on Wisconsin Avenue do not travel as far as Capitol Hill or beyond. People using buses for work or other trips often have to make transfers to the subway or other buses to reach many of their destinations, which can add considerably to their travel time and make some of those transit trips impractical for regular use.

In the most recent WMATA information about the status of the Metrobus corridors in the PCN, the implementation of the plans for making the Wisconsin Avenue/Pennsylvania Avenue corridor a high-quality bus route is shown as “Partial.” That is because numerous improvements identified as vital to bringing the level of bus operations to the goal of high capacity/high frequency service have not yet been put in place. According to WMATA’s capital plans and its MoveDC implementation plans, the desired improvements on Wisconsin Avenue are not yet scheduled or contracted.

The concept of Priority Transit Corridors for WMATA is a planning tool, not a measure of what services are in place and available to riders today, as is clear from the page about PCN on WMATA’s website:

The Metrobus Priority Corridor Network (PCN) is a strategy for improving bus service in the Washington region quickly and efficiently. The goal of the PCN is to improve bus service travel times, reliability, capacity, productivity and system access. The plan includes 24 corridors across the region and will impact half of all bus riders in the current Metrobus system. The PCN will provide a faster and more comfortable service by improving and providing:

- Bus running ways, signal priorities and bus-only lanes or queue jumpers.
- Better passenger amenities, access, information and service reliability.
- New buses with low floors and hybrid technology.
- New limited stop services

Source: http://www.wmata.com/about_metro/bus_planning/priority_corridor_network.cfm

I suggest several considerations for the Office of Zoning as it reviews the provisions of the ZRR covering reductions to minimum parking requirements in the ZRR in areas referred to as “transit corridors”:

A. Base the test for “transit corridors” on actual transit service and plans for service

The Office of Zoning and Office of Planning should regularly assess where high frequency/high capacity transit services are being provided and adjust the application of reductions from minimum parking requirements if there are not current operations or imminent plans to raise bus service levels to what would qualify as high frequency/high capacity service as well if the level of transit services changes significantly in the future, up or down. The corridors where reduced minimums apply should be kept current to assure that real opportunities are available for using transit as an alternative to motor vehicles.

B. Require Developers to Present Affirmative Evidence of High Capacity Public Transit

A developer proposing a project on a corridor that could be subject to a reduction in parking requirements should be required to provide evidence of the frequency of bus or other transit services, either currently in operation or planned, before reduced parking minimums are approved for that particular development.

C. Amend Streetcar Provision to Refer to Operations, not just Construction Contracts

For developments on a “streetcar line,” the ZRR provisions should be amended to refer to having streetcars in operation on the line, not just a contract for construction of the line. As we have learned, there can be a significant delay between signing a construction contract for streetcar tracks and launching passenger service on those tracks. Over the years, we also have experience in Washington and other cities with having streetcar tracks in place on a street but no longer having streetcar service on those lines. Rail lines are long-lived investments and they can last much longer than transit operations on the lines.

D. Rebuttable Presumption

For the proposed reductions to minimum parking requirements to be effective in addressing transportation circumstances and demand for parking in the variety of projects and situations likely to arise over the long term, the ZRR should think about treating the existence of a streetcar line or bus routes on WMATA’s Priority Corridor Network as creating a rebuttable presumption that the corridor has high frequency/high capacity transit service that would justify reduced minimum parking requirements. The ZRR should allow for an ANC or others in a zoning case to present evidence that residents or users of a proposed project would not have a level of real and practical public transit services sufficient to reduce the demand for parking to half the otherwise applicable minimum parking requirements set out in Subtitle C Chapter 7 of the ZRR.

E. Providing Flexibility to Update the Corridors

The existing zoning code has been in place for many decades, and most observers recognize that reopening the zoning code for revisions can be a complicated and difficult prospect. The current draft of the Vehicle Parking provisions of the ZRR incorporates specific references not only to Metrorail and streetcar lines, which may be fairly long-lasting, but also to specific Metrobus routes and corridors included in WMATA’s Priority Corridor Network initiative that dates as much as ten years and is already in some cases out of date. As time goes by, both the city and WMATA may adopt additional high

frequency or high capacity bus routes, as DDOT's "MoveDC" plan has suggested as recently as October 2014. Some bus corridors routes listed in the ZRR could also potentially be dropped from the plans for high capacity bus transit, whether because traffic demand shifts or bus service is supplanted by other options such as proposed new Metrorail lines or streetcars or other forms of mass transportation that do not follow the same alignment. It seems as if it would be wise for the ZRR, which we hope and expect will serve for many years into the future, should allow for adjustment in the list of transit corridors that are covered by reduced minimum parking requirements, in order to be able to match evolving plans and operations by adopted by WMATA, other prospective transit operations, and/or the city. Could the ZRR Provision be amended to refer to "Metrobus routes included in the WMATA Priority Corridor Network or other such plans as the local transit authority or the city adopt to succeed the PCN in the future" or something to that effect? A list of specific streets and corridors served by bus routes is subject to change at any time and the current provision of the ZRR is tied to one set of corridors and bus operations that were current when the ZRR process began but will continue to evolve, and the provision does not allow for any flexibility to adjust or update that list as the years go by.

In fact, the bus routes listed for the Wisconsin Avenue/Pennsylvania Avenue corridor have already changed since the ZRR provision was drafted. Even WMATA's own listing on its website is out of date. On that corridor, the 34 bus was eliminated in 2007 and then reintroduced in 2008 to operate along the Pennsylvania Avenue route only between Naylor Road SE and Archives, while the 34 bus into upper Northwest Washington was replaced in August 2014 by the new 30S and 30N buses, which represent most of the buses operating on Wisconsin Avenue. The 32 and 36 buses have been truncated so they do not serve the Wisconsin Avenue corridor; they run only from Pennsylvania Avenue SE to Archives. The rest of the former 32 and 36 route up Pennsylvania Avenue and Wisconsin Avenues has been replaced by the 33 bus. Neither the 33 nor the 30S and 30N buses are even mentioned in the list of bus routes on that corridor, in the Vehicle Parking provision of the ZRR. In other areas, bus routes have also changed. The U Street-Garfield route (listed as Metrobuses 90, 92,93) no longer gets as far as Garfield Street. Just this month, the WMATA board is voting on eliminating the 93 bus, as well as making reductions or adjustments to bus services on the 34, 54, 80, A48, and X3 (all also on the list of routes in the ZRR). Bus planning is dynamic and operations can change frequently in numbers, names, routes, etc. It would be wiser not to use something so changeable as the sole basis for a critical zoning provision in a rewrite of the regulations that is intended to have longevity.

The massive number of pages of the ZRR -- at least the few hundred pages I have read -- are so thoroughly researched and reasoned that I don't like to bring up any weaknesses, but transportation is the field I have worked on for many years and I thought I would offer those thoughts in case they can save you some difficulty in the future.

All the pages of the ZRR have remarkably few typographic errors. I just noticed two tiny items for correction in Subtitle C:

A. § 702.1 (b) Within one-quarter mile (0.25 mi.) of streetcar line that is currently in operation or for which a construction contract has been awarded; or

is missing the word "a" before "streetcar" in ZC Proposed Action, Dec. 2014 Subtitle C-37. It should be:

§ 702.1 (b) Within one-quarter mile (0.25 mi.) of a streetcar line that is currently in operation or for which a construction contract has been awarded; or

B. § 710.2 (b) (1) Between a building restriction line and a front lot lone

in the top line of ZC Proposed Action, Dec. 2014 Subtitle C-45 should be:

§ 710.2 (b) (1) Between a building restriction line and a front lot line

Subtitle W: Specific Zone Boundaries

My neighborhood includes multiple areas that have been designated as part of the Naval Observatory Overlay District (NO zones), which are being renamed as R, RA, or MU zones. Among the narrative descriptions of zones in the city, including other newly created zones that have been part of Overlay districts in nearby areas such as Cleveland Park and Wesley Heights, I do not see any sections in the proposed Subtitle W that describe the boundaries of the newly created zones that were formerly identified as part of the Naval Observatory Overlay District:

R11	formerly R-1-A/NO and R-1-A/NO/TSP/D
R12	formerly R-1-B/NO and R-1-B/NO/D
R13	formerly R-3/NO
RA-6	formerly R-5-A/NO
MU-27	formerly C-2-A/NO

I wonder if the description of those zone boundaries was intentionally left out of the ZRR or if that might be the result of an oversight?

Because the ANC members often are asked about the boundaries of the zones in our community, including those covered by provisions related to their proximity to the Naval Observatory, it would be very helpful to have narrative definitions for those former Overlay zones in Subtitle W, in addition to the maps maintained by the Office of Planning and the Office of Zoning to show the boundaries of the zones.

Subtitle U: Use Permissions

When we had briefings and conversations by representatives of the Office of Planning and the Office of Zoning in the past year about the provisions of the ZRR affecting our area of the city, we were told that there were no changes to the zoning standards applicable to the Naval Observatory Overlay District: “It has been renamed to different names, depending on the underlying zone, but no substantive changes.” I believe that statement applies to the height limits, setback requirements, lot occupancy, and Floor Area Ratio.

In my part of the city in close proximity to the Naval Observatory, we have become used to the expectation that in the Naval Observatory Overlay District, development proposals will be subject to review by representatives of the observatory and a project will not be allowed if it would affect the security or use of the observatory property. In particular, I understand that under the current zoning regime, projects near the observatory are not allowed to incorporate lighting that would spill beyond the particular development and affect the “seeing” for the telescopes at the Naval Observatory. Other considerations for development project in that area include height limits and adequate perimeter around the Naval Observatory property to ensure safety and security for the observatory and residents and employees there.

I am surprised that I cannot find any references to restrictions on lighting on the exterior of buildings or lighting that would be emitted (“spill”) from the interior of developments proposed in what have formerly been designated as NO zones, including the commercial district along Wisconsin Avenue in Glover Park that adjoins the Naval Observatory on the western edge (formerly C-2-A/NO, redesignated MU-27 in the ZRR).

MU-27 is included as part of MU-Use Group E, which does not seem to have any reference to lighting (see Subtitle U 63-70).

I notice that MU-Use Group D does include a provision about light spillage as well as provisions related to compatibility with the surroundings in design, siting, landscape and operation:

(6) An applicant requesting approval under this section must demonstrate that the proposed use, building, or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will:

- (A) Be in context with the surrounding street patterns;
- (B) Minimize unarticulated blank walls adjacent to public spaces through facade articulation, materials, display windows, entries, and other architectural efforts; and
- (C) *Will not result in light spillage off the site* [emphasis supplied];

ZC Proposed Action, Dec. 2014, Subtitle U-61 to U-62

When I read the ZRR, I was expecting to find a provision related to lighting in the provisions that apply to what is being renamed MU-27, governing most of the commercial district close to the Naval Observatory. I wonder if this is an oversight, and thought I should raise the question in my comments.

The zoning provisions currently applicable to the Naval Observatory Overlay District include five paragraphs in Title 11 Sections 1531 about restricting uses in that area, which are echoed in the language of Subtitle G, Chapter 8 §800 (G-29) paragraphs 800.1 (b) through (f).

I believe the current zoning provisions also include some additional language governing development in the Naval Observatory Overlay District in a separate section, Special Exceptions (NO) §1533:

- 1533.1 In an application for a special exception in the NO Overlay District, the Board of Zoning Adjustment shall consider, in addition to the criteria in § 1304 and in other chapters of this title, whether the proposed development is compatible with the:
- (a) Present and proposed development within and adjacent to the NO Overlay District;
 - (b) Goals, objectives, and policies pertaining to Federal facilities, as found in the Comprehensive Plan and the Master Plans for the Federal facilities within the NO Overlay District; and
 - (c) Role, mission, and functions of the Federal facilities within the NO Overlay District, and the effect that the proposed development would have on such facilities.

I do not know if this language is included in some other section of the ZRR or if it would be considered essential to protection of the use and security of the Naval Observatory, but I noticed it was not included in the chapter of the ZRR where I found sections applicable to the zones in the former Naval Observatory Overlay District. For that reason, I thought it would be worth mentioning the apparent omission in my comments

I was also surprised that the ZRR applicable to MU-Use Group E includes permission for firearms retail establishments as a matter-of-right use, with some exceptions related to nearby zones and land uses:

512 MATTER-OF-RIGHT USES (MU-USE GROUP E)

512.1 The following uses shall be permitted in MU-Use Group E as a matter-of-right subject to any applicable conditions:

(f) Firearms retail sales establishments, except that no portion of the establishment shall be located within three hundred feet (300 ft.) of:

- (1) Any R, RF, RA, MU-1 or MU-2 zone; or
- (2) A place of worship, public or private school, public library, or playground

ZC Proposed Action, Dec. 2014, Subtitle U-65

I trust that the restrictions on proximity to residential zones in that section would preclude a firearms retail establishment in MU-27, because the Naval Observatory itself is zoned R, as are most of the surrounding zones. I hope that no firearms retail sales establishments would be allowed in the areas adjoining the Naval Observatory and the Vice President's residence.

Subtitle I: Downtown Development Zones

It sounds like an excellent idea to simplify the names and number of zones in the central area, and make it easier to understand and pursue the goal of developing constructive uses downtown, including arts, housing, and child care. It also sounds positive to identify specific downtown areas that are eligible to receive development rights transferred from other development sites in the central area under the Transfer Development Rights (TDR) program. I hope this will prevent developers of downtown sites to shift responsibilities for inclusionary zoning to outlying areas that already have significant amounts of affordable housing.

Increasing availability of affordable housing is a priority for many residents as well as a challenge. The city has committed to developing additional affordable housing throughout the city, including as recently as September 9 in the remarks of the mayor to ANC members at her ANC Engagement Forum. She promised specifically that in the future the city would not allow developers of new projects downtown to place affordable housing to meet their IZ requirements across town in Ward 8 or in other parts of the city outside the central area that are already home to substantial proportions of the city's low-income residents and low-cost housing. I see in the ZRR that Subtitle I applies special rules related to affordable housing in the areas singled out as Downtown Development (DD) zones. The page on the DCOZ website summarizing the provisions of the ZRR on the new Downtown regulations states:

Ensure Affordable Housing. Require Inclusionary Zoning (IZ) in all Downtown expansion areas that are not now TDR receiving areas, which are already eligible to achieve maximum density through the purchase of bonus rights generated by preferred uses within the existing Downtown.

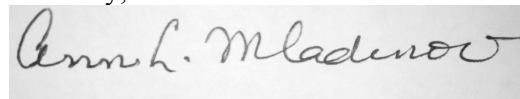
See: <http://zoningdc.org/2015/09/01/zrr-revisions-for-dcs-central-area/>

I am hopeful that the new regulations will reach that goal. I understand that several parts of downtown are now and will remain exempt from IZ requirements, but the surrounding parts of downtown that are covered by TDRs should provide opportunities for more affordable housing. The change in the extent of portions of the central area that are eligible to receive TDRs sounds like a useful experiment. I trust that the Zoning Commission will remain attentive to the effects of the TDR agreements on availability of affordable housing in the central area, and will work to apply the new provisions in a way that will serve the goals of Subtitle I, including ensuring affordable housing. I recommend that the city and specifically the Office of Zoning and the Office of Planning continue to evaluate the results of the changes adopted in the ZRR for downtown development and specifically for affordable housing downtown, and that the city will consider changes to the credit system or the way TDR rules are being applied if the new provisions do not appear to be resulting in the development patterns intended under the ZRR provisions for the downtown areas, including projects incorporating arts, housing, and new affordable housing downtown.

The ZRR covers so many vital details that will be important for future decisions about development in the city. I appreciate the many provisions explaining the rights and responsibilities of ANCs in zoning issues, and I appreciate the countless hours the staff has spent in developing all the provisions of this complex set of zoning regulations.

Thank you very much for your consideration of my comments.

Sincerely,



Ann Lane Mladinov
Commissioner, ANC3B01

Enclosure: ANC3B Resolution Supporting Proposed Rewrite of DC Zoning Code, February 21, 2013