

25 September, 2015

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Members of the Zoning Commission
DC Zoning Commission
c/o the Office of Zoning
Suite 210 South
441 4th Street, NW
Washington, DC 20001

Re: Zoning Regulations Rewrite Case No. 08-06A

Ladies and Gentlemen:

The Penn Quarter, Chinatown, and Mt. Vernon Square neighborhoods have led the District's transformation to a living downtown. I was fortunate enough to work on this transformation for most of my professional career as an urban planner. More than 10,000 residents call these neighborhoods home. The city has successfully established a community with a mix of commercial, residential, and cultural uses. The residences are often located above or tucked in between commercial buildings. This proximity comes with many benefits; however, this proximity can also adversely impact the quality of life for downtown residents. Downtown residents expect, and welcome, the opportunity to live among a greater range of uses, activities, noise, and lights than found in traditional residential neighborhoods. However, there is a point that this can be excessive and negatively alter the quality of life. The comments below address the issues in the Zoning Regulations Rewrite (ZRR) that if not modified will negatively impact our downtown residential community, and in some instances other valuable resources here.

Traditionally, Residential Districts have been established to protect residents from uses that generate incompatible activities, especially those that disturb the quiet enjoyment of one's home. These protections have been removed Downtown because the ZRR does not include Residential Districts, instead 'Residential Uses' are permitted and often required in a commercially zoned area – even where today it is zoned Residential and where Residential with ground floor retail in some instances exists. This issue can be ameliorated simply by substituting the words 'Residential Use(s)' in place of "Residential Districts" examples of which are noted below.

On behalf of our residential community, I and others who live in Penn Quarter and have discussed the problems here respectfully request that the Zoning Commission revise the following proposed zoning regulations in Subtitles I and C to protect the quality of life of downtown residents prior to adopting the

ZRR. Further, I request that you amend the map so that the FBI site can be developed as a matter of right in accordance with the Pennsylvania Avenue Plan – 1974, as amended.

Subsection I - Downtown Uses – Chapter 6.

Residential Uses in downtown commercial zones should be afforded some degree of protection from certain uses, noise, and artificial light to maintain an acceptable quality of life. To create and maintain a viable living downtown, the proposed zoning regulations should be modified to treat ‘Residential Uses’ in the Downtown Zone similar to “Residential Districts” elsewhere. Use Categories that include activities that are incompatible with residential uses should include conditions that either prohibit, place restrictions on, or include distance requirements. For example the Food and Alcohol Services use category includes a full range of establishments. Some of these are incompatible with residential uses due to the excessive noise generated very late at night. The proposed use restrictions in “Residential Districts” should also apply to all “residential uses” in the Downtown Zone. In addition, any reference to “Residential District” or “Residential Zone” should be revised to refer to “Residential Use(s)”.

Using the term “Residential Use” instead of “Residential District” or “Residential Zone” will help facilitate the ability of other agencies to establish or change regulations to help protect the quality of life of downtown residents. For example, regulations that restrict hours of operation or maintain distance requirements between uses can address nuisance noise from commercial loading operations, amplified sound, or nearby construction, as well as direct or indirect light that penetrates or bounces off nearby walls into the living quarters of residential homes. You have no idea how important this is but those of us living here do know what it is like to have trash trucks beep as they back up to raise dumpsters to move the trash from those behemoths to the truck at 3 and 4am.

Arts Related Uses in Lieu of Arts Uses Downtown

I ask that you delete from a list of related arts uses such venues and facilities as day care centers, drinking venues, and places where people go to drink and dance – commonly known today as nightclubs (though quite different from nightclubs of an earlier era). These are not arts uses nor have they supported the inclusion of arts uses in and around Penn Quarter. If anything, they have done the opposite – they have allowed developers the opportunity to avoid including arts uses or uses one could logically consider to be related to arts such as a book store.

Parking – Subtitle C, Section 1900

1. Parking Requirement - (Section 1902.3 (b)): Vehicle parking shall not be required in the Downtown zones.

I believe there is good reason to require a minimum number of below grade parking spaces – If none are provided in the future, residents, property owners, cultural venues, retailers, restaurants, and the city's tax receipts could all be affected negatively.

Many who own cars and live downtown seldom use them. Several property managers estimated that over 50 percent of the residents with cars do not use them to commute to work. The work commute is where efforts have been made to reduce the use of cars. Many residents in Penn Quarter commute to work, to the theaters, and to restaurants during the week on foot, by bicycle, or by public transit. Some don't even use their cars to visit doctors or for errands on weekends. But they need a place to store their vehicles because unlike residential neighborhoods to the north, south, east, and west, street parking is unavailable to Downtown residents. Even today, historic preservation and unusually narrow lot sizes have resulted in residential development without parking or with only a few parking spaces, requiring residents with cars to find monthly parking elsewhere. Based on existing conditions, given the neighborhood has been almost entirely renovated or redeveloped over the past thirty years, there is also a need for parking requirements on commercial sites so that space will be available for residents to park in those garages when parking space is not available on residential sites. But what about the future?

The Office of Planning has said that the ZRR is the guide for the next 50 years. Given that parking is a use that can't easily be retrofitted, and, further, that the streets Downtown are all metered leaving garage parking as the only alternative to residents living here, there could be an imbalance between those owning cars wishing to live Downtown and the available number of spaces. And such an imbalance will not be rectified for years given the lag time between conceiving of a development and its completion. Should this happen, and there is no reason to believe it will not, potential Downtown residents will be looking to live elsewhere – some in the District and others in surrounding jurisdictions. Those owning condominiums and rental apartments without parking will see the value of their properties decline. Further, and also critical to the city's tax base and its desire to be a world class city, would be the difficulties that restaurants and cultural venues, especially theaters, may find themselves – no parking available could mean a steep decline in ticket sales and some theater companies may not be able to weather the three to four years it takes for new development with parking to be developed. Apartment rentals, condominium sales, restaurant business, attendance at and even survival of cultural venues, and commercial rentals are all at stake. Especially hurt will be those residents who purchased condominiums without dedicated parking as they will have to appeal to a much smaller niche market that is likely to be younger and less well-off financially. Car sharing in commercial and residential buildings could also be

impacted given the increased value (and charges for) existing spaces – no spaces or too expensive spaces will result in no car sharing availability.

The irony for residents here would be that so many don't use their cars for commuting but still need a garage to store them so they are available primarily on weekends or off-hours for errands, to visit family, and for vacations. Therefore, I am requesting that you include a minimum parking requirement, especially for residential buildings, but also sufficient to accommodate those who need to drive because public transit is not a reasonable option, those who are handicapped, and to provide spaces for car sharing, regardless of the proximity to Metro stations.

Since a number of those who testified have equated the cost of providing parking with the reduction in condominium sales prices or rents I would just like to clarify that the cost of providing parking is born primarily by those who rent or purchase the parking spaces and rarely is this a requirement, not by those buying or renting residential units who do not have cars. There are many factors that go into pricing residential – construction, carrying costs, pre-development costs, whether or not affordable units are included in the development, contingency costs, utilities, the contract with the garage operator in a mixed-use building, and so on – but in the last analysis, it is the market that will be the primary influence on the cost of units plus the developer's incentive to make as handsome a profit as possible. Last, in rental buildings, the owner can influence the price of parking so it doesn't adversely affect the owner's ability to rent the units. Not so in a mixed-use building that include condominiums where all the parking is leased and none owned by the condominium owners. Unlike the apartment building owner the owner of a commercial mixed-use building that also include a residential condominium component has no financial interest in the ability or sales price of the condominium units. And because parking is limited here, he can set monthly fees at rates that the market will bear. I have seen monthly parking fees for those in such mixed-use buildings soar to over \$500 – and no car sharing spaces. As parking becomes scarcer charges will increase, residential values will decline, and downtown could again become a 21st century version of what it was in the late 1960s and 1970s before PADC and developers began its transformation.

Loading, Subtitle C, Sections 2101.8 and 2103.3.

In buildings with residential units or in mixed-use developments where residential uses share loading facilities with adjacent commercial uses, the loading regulations should be amended to require either:

- a. A loading zone, or
- b. A short-term parking space for loading either in a garage, off of an entry driveway, or elsewhere on private property adjacent to an entry door, or

c. A loading dock

With no curbside parking for residents to unload purchases, dry cleaning, infant and toddler accoutrements, a loading zone, short-term parking space, or loading dock needs to be available for residents to use weekdays and weekends, daytime and evenings, to enable residents to load and unload belongings and transport them to and from their residential units.

If 24 hour access can not be accommodated, then the regulations should require that the property owner obtain a space at the curb by the residential entrance so residents exclusively may load and unload belongings 24 hours a day. This is not a loading space for move in/move out purposes but for residents who cannot park on site or who car share to be able to place belongings into and out of a vehicle. Living downtown and unloading and loading a vehicle that cannot park on site is quite a different matter than in a residential area of the city.

Mapping Issue -- The FBI Site

There may be a legal problem with regard to the proposal to designate the FBI site D-6-B-1 instead of D-7-B-1, the designation for the five other squares along Pennsylvania Avenue between 10th and 15th streets.

The D-7-B-1 requirements are the same as those for the C-5 Zoning category today. They were created to conform development on these blocks to the requirements of The Pennsylvania Avenue Plan – 1974, as Amended. The FBI had been completed and though not a building that would pass muster today, it does conform to the C-5 Zoning category and The Pennsylvania Avenue Plan – 1974 requirements as to setbacks and heights. There are required setbacks and building heights in the C-5 / D-7-B-1 zone as there are in The Pennsylvania Avenue Plan – 1974. The C-4 / D-6-B-1 does not have these requirements; it also does not allow buildings as a matter of right to attain the full 160-foot height measured from

Pennsylvania Avenue that is permitted under the Height of Buildings Act of 1910 and that is permitted in the C-5 / D-7-B-1 zone and The Pennsylvania Avenue Plan – 1974, which is in effect still today.

I ask that you change the FBI site to D-7-B-1 so that the urban design objectives requiring the setbacks can be attained as a matter of right, given review of that site by GSA, NCPC, and the Commission of Fine Arts. By changing the zoning to D-7-B-1 as a matter of right, new development will be able to attain the full 160-foot height specified in The Plan, which compensates for the loss of FAR from the setbacks that

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are so critical to framing The Avenue vista to The Capitol equally on both the north and south sides of The Avenue. The additional height permitted and resulting additional development should also be useful in encouraging a mixed-use development scheme if the site is redeveloped.

I hope you are still open to reconsidering these few important proposed changes to the ZRR in our downtown neighborhood. I wish I could say that people living in Penn Quarter and nearby understand how Zoning impacts their environment. They do not. They understand that there are quality of life problems here, but not how they possibly can be ameliorated or aggravated by Zoning. What I am trying to present to you are the conditions in the ZRR that will aggravate rather than alleviate existing problems for people living here.

Thank you in advance for your consideration of these important issues that affect the quality of life of downtown living. Please contact me at 202-626-0011 if I can be of assistance in anyway and if you are permitted to do so.

Very truly yours,



Jo-Ann Neuhaus

Resident

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Members of the Zoning Commission

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Marcie Cohen, Vice-Chairman

Robert Miller, District Resident

Michael G. Turnbull, Architect of the Capitol Designee

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