

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

Zoning Commission Case No. 08-06A, Subtitle D

Summary of Testimony of Alma Hardy Gates

Administrator, Neighbors United Trust

Member ZRR Task Force

November 6, 2013

The Residential House Zones are designed to provide for stable, low to moderate density residential areas suitable for family life and supporting uses. Subtitle D § 100.2 (f) specifically notes the R zones are intended to discourage multifamily development; however, and in contradiction to the previous statement, §103.2 states that one (1) accessory apartment shall be permitted per lot of record in all R zones.

- New individual zone designations have divided the low density residential zones into 10 groups and 20 zones. Should the current familiar zone classification system be maintained for the low density residential zones?
- Overlay zones have been rewritten. The development standards and overlay specifics are separated in the text to reflect the standards of similar residential zones. Specific tree protections, a major purpose of the overlay, are listed in following regulations. The punitive regulation § 301.3 was reduced by OP from seven years to five years.
- Boundaries, lot and square numbers for many of the overlays have been removed from the main overlay section in Subtitle D and placed in the mapping section (Subtitle W). For example, the Chain Bridge Road/University Terrace (CBUT) Overlay no longer includes boundaries, square and lot numbers in the primary text section in Subtitle D, and there is no reference directing the reader to go to Subtitle W. This same void exists for many of the overlays.
- Roof structures, like pergolas and enclosed entertainment areas, will be permitted in addition to antennae, solar panels and wind turbines. These structures are limited to 10 feet above the allowable 40 feet height limit.

- Two Georgetown zones were considered for customization. There is no language in the code that addresses how other neighborhoods might apply for this special zone treatment other than Subtitle X, section 400; nor has OP been willing to discuss customization with other neighborhoods.
- Accessory buildings as tall as 20 feet will be permitted in low density residential zones, theoretically turning a single family zone into a two-family residential zone. The addition of another dwelling unit on the same lot is contrary to the purpose of low density residential zones.
- Home occupations can occupy the main home or the accessory building. The list of allowable uses has been expanded and may lack sufficient limitations on intensity of use or numbers of visitors coming to the site on a daily basis. This potential intensity of use is contrary to the purpose of low density residential zones.
- Matter of right accessory apartment units in the main home have been introduced into the code. The Georgetown zone requires a special exception for accessory apartments. Why is Georgetown being treated differently with regard to "special exceptions" for the same zoning change?
- There is no longer a requirement to provide one off-street parking space in low density residential zones unless access from an improved alley at least 10 feet in width is available.
- Subtitle D is generally more cumbersome than the sections of the current code that address regulations dealing with low density residential zones and where all provisions dealing with each individual residential overlay are found in one section.

Subtitle D is one of the larger sections of the ZRR and suitable to use as an example of what has not been accomplished in the zoning revision. There is as much or more flipping between subtitles in the ZRR than in the current code. Some of the cross references are missing. OP has carried forward policies that have been met with resistance from neighborhoods as well as members of the task force. Prime examples of unwanted change are the introduction of external accessory dwelling units, matter of right internal apartments, expanded home occupations, and removal or reduction in required parking (which is not in Subtitle D).

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The Residential House Zones are designed to provide for stable, low to moderate density residential areas suitable for family life and supporting uses. Section 100.2 (f) of Subtitle D specifically notes the R zones are intended to discourage multifamily development; however, and in contradiction to the previous statement, § 103.2 states that one (1) accessory apartment shall be permitted per lot of record in all R zones.

The new residential house zone designations, which have been divided into 10 groups and 20 zones, are an unwieldy number of areas to navigate and unless the zone is known previously, might be difficult to pinpoint. Overlay districts that were once standalone sections of the code are now in their own group/s with underlying zoning (development standards). The specific protective provisions that communities fought hard to get into the zoning code remain but almost appear an afterthought as presented. The CBUT overlay has been divided into two groups and two sections (D, chapters 3 and 4), based on size of lot. It is unclear why Chapter 4 is necessary as the purpose of the overlay applies to all lots in the overlay, regardless of size. The division of the overlay in this manner is unnecessary. The current overlay language has been effective, has accomplished the purpose for which it was established and should not be changed to fit a one-size fits all template.

For the sake of clarity and ease of use it would be preferable to continue the current R Zone designations and the structure of individual overlays that exist in the zoning code. One additional note about the CBUT Overlay -- the current code lists the squares and lot numbers for all properties that lie within the overlay in the overlay section (1565.4). Square and lot numbers are not carried forward in the overlay section of Subtitle D. The new code places square and lot numbers for the overlay in Subtitle W, Mapping; however, there is no reference to Subtitle W in the section of Subtitle D that briefly addresses the boundaries of the overlay (D-300.2). If these revisions are intended to streamline and simplify zoning, they have not. Rather the "guts" of the overlay appear less restrictive and seem to undermine the

effectiveness of the protective overlay zoning that was hard fought for by neighborhoods throughout the city; and it necessitates searching in various Subtitles to put all pieces of the overlay together. The special exception tree removal section (D-1704) for those overlays covered by a tree and slope requirements, is not referenced within overlay requirements for those areas that have this special protection and regulation. This is another reason to keep the current low density residential zones and overlays as they currently exist and move them forward into the new code. In this case the separation of zone specific regulations and special exception provisions for the CBUT overlay need to be consolidated rather than locating them in multiple places in the same subsection or in other subsections.

Roof structures that allow an additional 10 feet in height are allowed in a zone limited to 40 feet, and include pergolas and enclosed entertainment areas atop residential roofs. This aspect of flat roofs was not discussed in the work groups or task force in the context of residential zones.

Chapter 11, Group 10 contains two customized zones for Georgetown. Customization was an option to be offered to all residential areas that expressed interest; but, the OP Director placed conditions on customized zones at the December/January public meetings and limited further discussions to the end of the code revision and to those residential areas that have the support of their citizens association and ANC. These conditions were not placed on Georgetown, in fact, OP sought-out Georgetown and worked hand in glove to ensure two zones of choice were customized prior to approval of the new code. How will this process work for other neighborhoods after the code has been approved? Will the customization process be so difficult that neighborhoods will simply abandon the process or will OP afford all neighborhoods the same hand holding that was afforded Georgetown? In fact, there has been considerable interest in additional overlays for the past several years, and OP has also refused to consider these requests.

The proposed introduction of 20 feet tall Accessory Buildings (D-1100) in residential zones has been one of the more contested areas of the ZRR, and neighborhood opposition was instantaneous and continues. The proposal to allow another dwelling unit on a lot appears to undermine and contradict the intent to discourage multifamily development in residential zones. This proposal has unfairly targeted seniors "who wish to age in place." As one of them, it must be said that accessory buildings are not the panacea OP proposes given the cost of

permits and construction according to code, inspections, and the increases in property taxes and income taxes on rent receipts that would result.

Chapter 16, General Use Permissions in R Zones proposes to:

- Introduce matter of right home occupations, corner stores and accessory apartments in these zones. Where these uses cannot meet the conditions of the zone, a special exception can be granted. Only the Georgetown residential zone requires a special exception for accessory apartments. Why is Georgetown any different than the other 129 residential zones noted in the Comprehensive Plan? Even though there has been substantial opposition to this permission, accessory apartments currently exist without permits in all neighborhoods. The Zoning Commission must decide whether to continue to require a special exception which guarantees some level of tenant safety or simply wave a green flag and allow more of the same as a matter of right.
- Education, private, uses and residences for teachers and staff of a private school, but not including a trade school, shall be permitted by special exception subject to existing conditions with the exception of parking based on number of faculty and staff. This is very problematic as adequate onsite parking has been one of the most important regulations related to both campus plans and private schools located in residential zones. The previous parking formulas should be brought forward into the new code.

The General Rules that pertain to residential zones are found in Subtitle C. The necessity to flip between chapters in the zoning regulations was one of the most frequently cited reasons for a revision. It is clear there continues to be a necessity to flip back and forth between several subtitles. To address some of the regulations in Subtitle C that pertain to Subtitle D on another night rather than in the current context breaks the continuity of this testimony.

Subtitle C, Chapter 12 Rear Setbacks. Section 1201.3 addresses rear setback for R zones.

- (a) The rear setback shall be measured as a vertical plane parallel to the rear lot lines, measured from the rear lot line into the lot;

The point from which the proposed measurement is taken is exactly opposite the current practice -- from the rear of the building to the rear lot line. The reason for this change is not known, however it may afford more room for accessory dwelling units. However, it eliminates the necessity for light and air at the rear of the primary residential building.

Subtitle C, Chapter 1801 General Tree Protection Regulations addresses when tree protections apply although the overlays they are meant to protect are in Subtitle D.

Subtitle C, Chapter 19 Vehicle Parking. It is in section C-1902.2 that the requirement for Residential Single Family dwellings to provide one off street parking space is found, provided there is access available from an improved alley at least 10 feet in width; otherwise, there is no longer a requirement to provide one off street parking space per dwelling in the low density residential zones. This provision is another that has caused much public concern, but the Office of Planning has continued forward with its plan to place as much parking on the street as possible. Having parked cars lining low density residential streets does little to improve the attractive open spaces of these neighborhoods.

Generally, Subtitle D is much more cumbersome than current Title 11 chapters two (2) and three (3), which address low density residential zones. The ZRR appears based on a layering of regulations that require flipping between Subtitles to find all regulations that pertain to a particular zone (and some of these regulations are not reference in the main body of the section or the development standards. Subtitle D needs more work before it receives final approval.