

Government of the District of Columbia
ADVISORY NEIGHBORHOOD COMMISSION 4D
143 Kennedy Street, NW Suite #1 - Washington, DC 20011 - 202-722-6830

Lamont Akins,
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SMD 4D01

Rence Bowser,
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Donna Brockington,
Chairperson
SMD 4D04

Valikia Newsome,
SMD 4D05

Bill Quirk,
SMD 4D06

October 25, 2013

Zoning Commission
441 4th Street, NW, Suite 200-S
Washington, DC 20001

RE: CASE NO. 08-06A

Dear Commissioners,

The Zoning Commission set-down the final draft of the Office of Planning's Zoning rewrite for public review on September, 2013 and printed copies were provided at public libraries only this month, October, 2013. The limited time that Advisory Neighborhood Commissions and the public have been given to conduct meaningful review and participation in the formal process requires that the Zoning Commission delay its decision making and rule making. If enacted, the proposed zoning laws will have long lasting and widespread impact for ANC 4D and across the District. Accordingly, ANC 4D asks that the Zoning Commission delay any decision-making or rule-making concerning these draft amendments for at least 90 days following the close of this round of hearings so that ANCs can provide meaningful input. We also request that more hearings be scheduled for the community.

Attached this letter are the following resolutions voted on and approved by ANC 4D on October 15, 2013.

Resolution 2013-01, Resolution to Require Special Exception for Big Box Development.

Resolution 2013-02, Resolution to Require Procedural Changes to Afford ANCs Greater Weight.

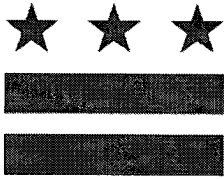
Resolution 2013-03, Resolution Redefining Affordability to Enable Low Income Residents to Benefit from Inclusionary Zoning.

Resolution 2013-04, Resolution on Office of Planning Proposals Important to the ANC 4D Community.

If you have any questions or require additional information, please contact me at 202-200-0136.

Sincerely,

Donna Brockington
Chairman, ANC 4D



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ADVISORY NEIGHBORHOOD COMMISSION 4D

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ANC 4D Resolution 2013 – 04
RESOLUTION ON OFFICE OF PLANNING PROPOSALS
IMPORTANT TO THE ANC 4D COMMUNITY

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Office of Planning's Corner Store Proposal. The District of Columbia Office of Planning proposes to authorize the establishment of Corner Stores in residential areas zoned R-3 and R-4. Subtitle D – Residential House (R), Chapter 16 Use Permissions R Zones. Housing in the geographical area of Advisory Neighborhood Commission 4D is principally zoned R-3 with a majority of row homes and some semi-detached and detached homes.

The “Corner Store” proposal, Chapter 16 at 1606, would allow the opening of a store on the ground floor of corner lots and interior lots, if such lots had non-residential uses before 1958.

The “Corner Store” proposal would authorize the establishment of up to four (4) corner stores within 500 feet. The proposal would authorize a limit of two (2) Eating and Drinking establishment Corner Stores within 500 feet. However, the proposal would allow the Board of Zoning adjustment to waive the restriction on the number of Corner Stores within 500 feet and permit more stores within a 500 feet area.

The “Corner Store” proposal would authorize the by right establishment of a fresh food markets or grocery stores and allow the establishment of Other Retail, General Service, Arts Design and Creation or Eating and Drinking Establishments by special exception.

The “Corner Store” proposal would authorize food markets or grocery Corner Stores to sell alcohol for off-site consumption and would allow 15% of the store's floor space to be devoted to the display of alcohol.

The “Corner Store” proposal would authorize the Board of Zoning Adjustment to waive certain restrictions on corner store operation, including the restriction on operating hours. ANC 4D Raises the Following Issues and Concerns regarding OP's Corner Store Proposal. ANC 4D states that the location of Corner Stores in Petworth row house neighborhoods, particularly food stores, will be detrimental to the geographical area of ANC 4D because these business establishments likely will cause the following negative consequences. First, with the increase in commercial uses, particularly grocery stores, there likely will be more trash and garbage strewn on the sidewalks and in the streets as a result of customers discarding food, food containers, beverage cans, bottles, and wrappers. The increase in trash and garbage will intensify the major rodent problem in ANC 4D which the City has failed to remediate. Already there are several areas within ANC 4D which suffer dumping of trash and these trash problems are difficult to regulate and control. Currently the Department of Consumer and Regulatory Affairs has difficulty in insuring proper trash containment in apartment buildings in ANC 4D; the Department of Public Works has difficulty in controlling spillage of trash and garbage during trash collection in ANC 4D and dumping of trash in public containers; and the Department of Health has difficulty in controlling the rodent population in ANC 4D. The establishment of more Corner Stores will aggravate these existing problems in these currently underserved areas without any accompanying requirement of additional and more effective service.

Secondly, the increase in businesses in fully residential row house blocks will bring an increase in noise and traffic. ANC 4D is particularly concerned that the location of up to four (4) businesses per corner, as the proposal authorizes, will increase the noise particularly for those residents whose homes will adjoin the Corner Stores. Increased noise will be even more likely if there is outdoor seating associated with a Corner Store. ANC 4D is also concerned that the location of up to four (4) businesses per corner will decrease parking available for residents, adding to already crowded on-street parking in ANC 4D's residential neighborhoods.

Contrary to an asserted purpose of the Corner Stores, they likely will not result in an increased offering of healthy foods. In this regard, because the grocery business is a low profit business, high volume is necessary to make significant profit. Jeff Cohen, grocery analyst with IBIS World (<http://www.ibisworld.com/>) reported in <http://www.marketplace.org/topics/business/groceries-lowmargin>. Therefore, rather than healthy foods, small Corner Store establishments will likely sell products from which they can make the most profits—snacks, desserts, sodas, and cigarettes. What is the Average Gross Revenue of a Convenience Store? Linda Ray, Demand Media, <http://smallbusiness.chron.com/average-gross-revenue-convenience-store>.

Furthermore, ANC 4D contains or is located very near commercial corridors along Georgia Avenue, Kennedy Street, and New Hampshire Avenue. If the purpose of the "Corner Store" proposal is to provide more food choices as well as other retail choices, the Office of Planning and other DC agencies should strengthen the businesses along those corridors by providing grants and other assistance to promote sustainable food stores that can stock a variety of fruits, vegetables, meats, and fish in quantities large enough to effectively serve the surrounding neighborhoods.

2. Office of Planning Proposal of 50% Reduction in Parking Minimums. The Office of Planning proposes to reduce by half the minimum number of parking spaces that developers will be required to build when constructing multi-unit housing in Apartment or Commercial/Mixed-Use zones that are within ½ mile of Metrorail stations, ¼ mile of street car lines, or ¼ mile of high-service bus corridors. Subtitle C – General Provisions, Chapter 21 Off-Street Parking Requirements. OP's proposal would authorize developers to build only 1 parking space for 6 dwelling units, a 50% reduction in the current off-street parking requirement. The proposal also would permit the Board of Zoning Adjustment to grant developers a full or partial reduction in the minimum number of required parking spaces through the special exception (hearing) process based on several flexible criteria designated in the proposed law.

ANC 4D Raises the Following Issues and Concerns Regarding OP's 50% Reduction in Parking Minimums. ANC 4D states that the proposed reduction in the minimum number of parking spaces developers will be required to construct as part of multi-unit housing will cause traffic congestion in the fully residential blocks which border development near Metrorail and major bus or streetcar routes. In Portland, Oregon, the model for the proposed changes in DC's parking law, a city-commissioned survey released in 2012 found that most residents in developments with no parking still owned cars and parked them on nearby streets. This caused the Portland City Council to reinstate parking minimums in that city. Portland City Council Approves Minimum Parking Requirement for Large Apartment Buildings, <http://www.oregonlive.com>, April 10, 2013; Joe Zehnder, Chief Planner, Bureau of Planning and Sustainability, Minimum Parking Requirement for Multi-Family Buildings dated December 13, 2012. It is likely that DC residents who move into buildings with no parking spaces will still own cars to same extent as residents in housing with parking with the result that greater numbers of residents, including those from multi-unit housing will be competing with residents who live on side streets adjacent to the transportation corridors for the same number of parking spaces that previously existed in the area.

OP's proposal to reduce parking minimums for new multi-unit housing also overlooks the fact that residents' parking needs change with life changes. While new residents with minimal family responsibilities may prefer to bike, residents with families and therefore family responsibilities such as child care, elder care, and family shopping may have different needs for transportation and parking.

3. Office of Planning Proposal on Accessory Dwelling Units. For purposes of ANC 4D, accessory dwelling units or accessory apartments are allowed in areas zoned R-3. Currently a homeowner can have one (1) ADU in the house if granted by special exception. Currently, the law allows a maximum of six (6) persons on site if using an accessory unit, and there is no proposed change.

The Office of Planning proposes, Chapter 16 at 1607 that a homeowner be allowed to establish the one (1) ADU by right, either in the principal dwelling or in an existing accessory building. The Office of Planning proposes that new construction of an accessory building be allowed by special exception.

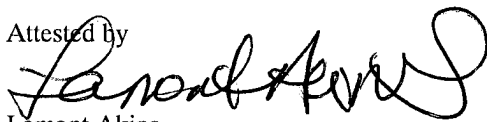
ANC 4D Raises the Following Issues and Concerns Regarding By Right Establishment of Accessory Dwelling Units. ANC 4D is principally concerned with the increase in noise which additional occupants in dwellings may cause and the impact of the increased noise on residents living next door to or between accessory units on either side. The increased noise may come from accessory units in the principal building or separate accessory buildings.

In sum, Advisory Neighborhood Commission 4D urges the Zoning Commission to respect the diversity of various sections of the City and not force Petworth to reflect the character of more commercial neighborhoods. Petworth residents value the quiet, residential character of this section of the City and made the choice to live in Petworth because of those characteristics. Accordingly, ANC 4D opposes changes in the character of ANC 4D in order to satisfy a narrative of what our neighborhoods should be without corresponding practical benefit to the residents and without addressing the negative consequences likely to result from the proposed changes.

WHEREFORE, Advisory Neighborhood Commission 4D:

1. Opposes the establishment of Corner Stores, including Corner Stores for which the use is a fresh food market or grocery stores, by-right in R-3 and R-4 zones of ANC 4D because there is no notice to residents and no opportunity for them to object.
2. Opposes the reduction in parking minimums for multi-unit housing developments that will be located on streets adjacent to and bordering residential streets so that the occupants of the multi-unit housing will not have to compete for existing residential parking.
3. Proposes that the establishment of Corner Stores, including Corner Stores for which the use is a fresh food market or grocery stores, be allowed in R-3 and R-4 zones of ANC 4D only by special exception or only by variance.
4. Proposes that the DC government begin real on-the-ground implementation of the plans to establish and upgrade groceries and other businesses along Kennedy Street and the Petworth sections of Georgia Avenue in accordance with the Kennedy Street Revitalization Plan and the Georgia Avenue Great Streets Plan.
5. Proposes that Accessory Dwelling Units in the principal dwelling or in an accessory building be allowed by special exception only.

Attested by



Lamont Akins

Secretary, on October 15, 2013

This resolution was approved by a roll call vote of 4-0, on October 15, 2013 at a regularly scheduled and noticed public meeting of ANC 4D at which a quorum (a minimum of 4 of 6 commissioner's) was present.



Government of the District of Columbia
ADVISORY NEIGHBORHOOD COMMISSION 4D
143 Kennedy Street, NW Suite #1 - Washington, DC 20011 - 202-722-6830

ANC 4D Resolution 2013 - 01
RESOLUTION TO REQUIRE SPECIAL EXCEPTION
FOR BIG BOX DEVELOPMENT

Lamont Akins,
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SMD 4D01

Renee Bowser,
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Lisa Colbert,
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Donna Brockington,
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Valikia Newsome,
SMD 4D05

Bill Quirk,
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WHEREAS, the District of Columbia Zoning Regulations list a series of commercial and residential development project types and uses which have unique impact on District neighborhoods and many require a special exception order from the DC Board of Zoning Adjustment. The Board can grant exceptions where "in the judgment of the Board, the special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps;" (DCMR 11-3104.1) and

WHEREAS, currently there does not exist a special exception requirement for commercial retail stores that are 75,000 square feet or larger ("big-box stores") despite the unique impacts these big-box stores can impose on District neighborhoods; and

WHEREAS, currently the District of Columbia Zoning Code and the proposed Zoning Code drafted by the Office of Planning permit "as of right" development for retail larger than 75,000 square feet on most commercially zoned land which means there is no public approval process to weigh the burdens and benefits of big-box stores to the community; and

WHEREAS, big-box stores are usually national in scope and have been shown to reduce sales to locally-owned, small businesses that sell the same and/or similar products; and

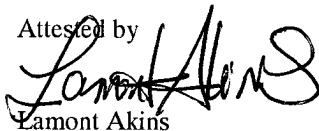
WHEREAS, big-box stores generate less revenue for the local economy compared to locally-owned small businesses; and

WHEREAS, the large size of big-box stores are often out of scale compared to neighboring stores; and

WHEREAS, the District of Columbia Zoning Commission is considering its first wholesale rewrite of the DC Zoning Code in over 50 years and such consideration includes whether to maintain its "as of right" development policy on most commercially zoned land:

NOW, THEREFORE BE IT RESOLVED that Advisory Neighborhood Commission 4D proposes and recommends that the District of Columbia Zoning Commission adopt a policy whereby a developer who proposes a big-box store must secure a special exception prior to proceeding with said development.

Attested by



Lamont Akins

Secretary, on October 15, 2013

This resolution was approved by a roll call vote of 4-0, on October 15, 2013 at a regularly scheduled and noticed public meeting of ANC 4D at which a quorum (a minimum of 4 of 6 commissioner's) was present.



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ANC 4D Resolution 2013 - 02
RESOLUTION TO REQUIRE PROCEDURAL CHANGES
TO AFFORD ANCs GREATER NOTICE

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Bill Quirk,
SMD 4D06

WHEREAS, the District of Columbia Zoning Commission ("ZC") and Board of Zoning Adjustment ("BZA") conduct contested case and rule making hearings on zoning matters about which the Office of Planning and other District agencies are authorized and, in some cases, required to provide written impact assessments and reports; and

WHEREAS, Office of Planning and other District agency reports on zoning matters are currently required to be submitted seven (7) to ten (10) days prior to the zoning hearings; and

WHEREAS, the District's Advisory Neighborhood Commissions are automatic parties to zoning matters which affect their areas of jurisdiction and are authorized to evaluate the benefits, impacts, and burdens on their constituencies; and

WHEREAS, the ANCs should be able to consider the written impact assessments and reports of the Office of Planning and other District agencies as part of the ANC evaluation and great weight decision; however, in most cases, the agencies' reports and assessments are not timely provided for use in ANC decision making; and

WHEREAS, in contested cases, BZA issues oral decisions which allow contested actions to proceed but engages in extensive delays in issuing final written decisions or orders which must be issued before ANCs have authority to file appeals;

NOW THEREFORE, BE IT RESOLVED, Advisory Neighborhood Commission 4D urges the Zoning Commission to enact the following procedural changes:

1. Change the current law, at DCMR 3012.3, to provide "the written reports and recommendations requested by the [Zoning] Commission pursuant to §3012.1 shall be filed by the Director of the Office of Planning with the Director of the Office of Zoning at least 60 days in advance of the hearing."

2. Change the current law, at DCMR 3114.2, to provide "when an application is referred in advance of the public hearing to any public agency for a report or recommendation, that report and recommendation shall be filed with the Board at least 60 days prior to the date for the hearing on the application."

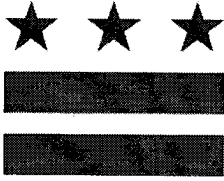
3. Change the current law, at DCMR 11-3125.6, to provide "a decision or order shall become final upon its filing in the record and service upon the parties within 60 days."

Attested by

Lamont Akins

Secretary, on October 15, 2013

This resolution was approved by a roll call vote of 4-0, on October 15, 2013 at a regularly scheduled and noticed public meeting of ANC 4D at which a quorum (a minimum of 4 of 6 commissioner's) was present.



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ANC 4D Resolution 2013 - 03

**RESOLUTION REDEFINING AFFORDABILITY TO ENABLE LOW
INCOMERESIDENTS TO BENEFIT FROM INCLUSIONARY ZONING**

Lamont Akins,
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SMD 4D01

Rence Bowser,
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Donna Brockington,
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Valikia Newsome,
SMD 4D05

Bill Quirk,
SMD 4D06

WHEREAS, the District of Columbia Comprehensive Plan, in Chapters 1 and 5, states that District planners must focus on building an “inclusive city,” and low income families in the District face a very serious affordability crisis with many low income families waiting in vain for affordable housing units; and

WHEREAS, the definitions of “low income” and “moderate income” households are percentages of the federal government’s Area Median Income (“AMI”) which takes into account the household incomes of the DC metropolitan area, including VA and MD households, which was \$107,500 as of 2012; and

WHEREAS, the median income solely for the District of Columbia (DMI) was \$66,583 as of 2012; and

WHEREAS, developers who participate in Inclusionary Zoning (“IZ”) obtain subsidies, variances, and favorable interest rates in return for building affordable units in rental or condo multi-unit housing developments;

NOW THEREFORE, BE IT RESOLVED that Advisory Neighborhood Commission 4D recommends the enactment of the following amendments to the District of Columbia’s Zoning regulations regarding Inclusionary Zoning in order to move toward true affordability in housing in ANC 4D and around the District:

1. That the definition of “low income households,” at DCMR 11-2601.1, be changed from 50% of AMI and redefined as “equal to or less than 30% of the District’s median income or DMI;
2. That the definition of “moderate income households,” at DCMR 11-2601.1, be changed from 51% to 80% of AMI and redefined as “between 31% and 50% of the District’s median income or DMI.
3. That the set-aside for IZ affordable units in residential developments be increased from 10% and 8%, respectively, to 20% and 18%, respectively, in order for developers to qualify for bonus development density.

Attested by

Lamont Akins

Secretary, on October 15, 2013

This resolution was approved by a roll call vote of 4-0, on October 15, 2013 at a regularly scheduled and noticed public meeting of ANC 4D at which a quorum (a minimum of 4 of 6 commissioner’s) was present.