



Zoning Commission Hearing, Case No. 08-06A

Subtitle C

Testimony of Nancy J. MacWood Chair, The Committee of 100 on the Federal City

November 19, 2013

Some of the bullet items that I submitted earlier are self-explanatory so I won't use time to reiterate them, but I hope the Zoning Commission will give them your full consideration.

There are three (3) proposals to change treatment of non-conformities. All three should be rejected. One would allow an expansion of a non-conforming flats or apartment buildings in residential or residential flat zones. The non-conformity could be caused by height, setback or lot occupancy violations and each of these could be made worse by an addition. Surely it's not too much to ask to require a hearing process.

The other two proposals provide new ways to continue a non-conforming use indefinitely. If the authorized use rules are to have any purpose why would we want to allow these new permissions that would permit someone with, for example, a non-conforming PDR business substitute another PDR use by right? The range of intensity of uses within a broad category could be enormous. Similarly, why would we want to allow, even by special exception, the owner of the PDR business to switch to a sex-oriented business? Isn't the goal to work toward replacing the inappropriate businesses with ones that are good for the zone? Why would we provide every means to encourage a business owner to keep using property for one inappropriate business after another?

The theme of eliminating special exceptions continues with the proposal to permit more than one principal building on a single lot. The existing requirement would be removed in every zone except residential zones. What happens to parking or loading requirements? Is this a way to avoid complying by constructing two smaller buildings that don't reach square footage triggers? If there isn't a clear reason, without potential for unintended consequences, for dropping the special exception, the Zoning

Commission should maintain the existing rule and only allow more than one principal building based on persuasive reasons during a hearing process.

There are several problems with the height proposals. In almost every subtitle height measurement methodology varies, often on the same lot. To avoid manipulating heights and building taller than the established scale, heights for all structures in R, RF, and A zones should be from existing grade, not finished grade. In addition, the purpose statement on why we regulate heights should include the intention to preserve the scale and character of a neighborhood. This is important because almost all the special exception rules require evaluating whether the request is consistent with the stated purpose for the regulation. If the purpose, for example, of height or roof structure regulations is incomplete the review could miss important considerations.

I urge you to look carefully at all purpose statements. They might seem benign but they can skew the Zoning Administrator's interpretations and regulatory proceedings. I mentioned side setbacks, tree protection, roof structures, IZ, and height as obvious ones that should be reviewed.

The proposed purpose of unit density regulations is an example of expressing the intent inaccurately. It is misleading to state the only reason we have density rules is to control the number of units; there are many other goals that should be mentioned, such as ensuring multi-family housing or single family housing options, varying the open space on different sized lots, etc.

The actual density controls as proposed in Sec. 201(c) are not expressed correctly and need to be revised to restrict unrelated occupancy to six persons total on a lot. That is what OP has said repeatedly is their intention.

The Committee of 100 agrees with many of the comments opposing the parking proposals. There is no DC-based data that we have seen to support reducing the minimum parking requirements. In single family and two family zones the requirement for on-site parking would be waived, if there is no alley access. Why would we want to discourage driveways where a family's car(s) could be parked and visitors and maintenance vehicles parked in order to relieve on-street parking demand? How does alley access change the need for accommodating the demand for parking in neighborhoods? We do not think this is a practical proposal and suggest the waiver should be deleted.

In the R5 and commercial zones OP is proposing a single parking requirement that exempts the first residential 4 units and applies 1 space for every 3 units, which would eliminate the escalating 1 per unit up to 1 per 4 unit current requirement. We have seen no persuasive information that this proposal won't result in exacerbating spillover parking in areas adjoining new multi-family buildings. The DC percentage of households owning cars has been pretty consistent, no big increase or decrease, according the Census Bureau over the past twenty years. Without neighborhood specific data demonstrating that car ownership, on-street demand, and business support lead to the reasonableness of reductions, we think reductions will create more frustration and anger in neighborhoods due to spillover.

There is no guarantee that absent parking new units will be more affordable. If you want to ensure a connection between parking and affordability, you might consider continuing to require a special exception, but condition approval partly on a demonstration that a majority of the units will be affordable for a range of incomes. This is potentially an opportunity to leverage a waiver or exemption for a beneficial land use goal.

In my neighborhood a building on Wisconsin Ave. was converted to housing and the 1 space per 3 unit parking requirement was provided but experience shows it is inadequate to meet the tenants' need for parking so they park in the street, and one tenant actually had the chutzpah to park in a resident's driveway and leave a note estimating when they would return. I receive constant complaints about how much on-street parking these tenants consume. We recommend that the minimum parking requirements continue and be reduced only by special exception.

For similar reasons, we oppose the change in the private school parking formula. Not one shred of data was produced to support the change from a demand-based to square-footage based formula. OP had no idea what the impact would be on the parking requirement. The after-the-proposal survey of a few schools showed that some of the most parking intensive schools would see a significant decrease in their parking requirement per the formula change. At the same time there is no data to indicate that these schools have any less impact on neighborhood parking supply. We strongly urge you to restore the current parking formula and continue the practice of putting the burden on schools in special exception proceedings to demonstrate that the demand they create is less than the requirement.

The 50% reduction in minimum parking requirement proposal should be eliminated until there are targeted studies and proposals per the Comprehensive Plan. The recent addition of penalties should also be eliminated. They were not discussed at the task force, nor were they submitted to the public for comment. This is another example of imposing a point of view on car ownership and using the zoning regulations to try to control behavior. That seems a more appropriate role for the Council through the Comprehensive Plan and so far they have only suggested using parking maximums as part of analyzing and mapping TOD overlays, not as part of a general restriction on production of parking citywide. We also suggest special exceptions for parking require applicants to meet all the proposed list of proofs to establish that there won't be unintended consequences rather than allowing applicants to pick one and call it a day.

Finally, please get the IZ regulations right. There is good reason that this program is ridiculed around the city. The proposed purpose statement is partly incorrect and the special exception standards are weak and undefined. Any applicant who couldn't meet the proposed review standard should probably not be in the development field. Critically important is a skeptical consideration of how IZ is proposed in the new downtown zones in Subt. I. We have to reconsider exempting such a large area of the city from IZ. This is a terrible policy because it ignores our number one problem and gives unexpected profit through density bonuses to developers without requiring them to help us produce affordable housing. The target income population should be adjusted to more accurately help those residents in critical need of housing assistance.

