

**Government of the District of Columbia
ADVISORY NEIGHBORHOOD COMMISSION 3-D**

P.O. Box 40486
Palisades Station
Washington, D.C. 20016

December 9, 2013

Mr. Anthony Hood, Chairman
DC Zoning Commission
441 4th Street NW
Suite 200-S
Washington, D.C. 20001

Re: Case No. 08-06A (Title 11, Zoning Regulations – Comprehensive Text Revisions:
 Subtitle C, Chapter 19 – Vehicle Parking;
 Subtitle D, Chapter 3 – Residential House Zones, Group 2, Chain Bridge
 Road/University Terrace; and Subtitle D, Chapter 8 – Residential House Zones, Group 7,
 Wesley Heights;
 Subtitle D, Chapter 13 – Accessory Building Regulations For R Zones; and
 Subtitle D, Chapter 16 – Use Permissions R Zones – Corner Stores)

Dear Chairman Hood and Commissioners,

At its regularly scheduled and properly noticed meeting on December 4, Advisory Neighborhood Commission (ANC) 3D considered several recommendations by the DC Office of Planning (OP) for revisions in the DC Zoning Code (**ZC Case No. 08-06A**). With a quorum (6) present at all times at its meeting held at the American University School of International Service, ANC 3D approved the following recommendations for consideration by the Zoning Commission.

Subtitle C, Chapter 19 – Vehicle Parking

By a vote of 7-3, ANC 3D voted to approve a resolution opposing the revisions proposed by OP to update parking requirements for new developments and to support maintaining existing regulations for parking requirements. (Formal Resolution Adopted by ANC 3D is attached.)

Rationale: ANC 3D noted that the number of automobiles registered in DC continues to increase based on data provided by the District Department of Motor Vehicles (DMV). Moreover, parking demand in the city continues to increase as a result of the increased number of automobiles owned by DC resident (in contrast with arguments made by OP that the percentage of households with cars is declining) and to meet the demands of commuters, tourists, and other service providers. OP's proposed parking rules are particularly insensitive to the diversity of DC's population and fail to recognize the needs of all DC residents, who at different stages of life when – due to age, physical conditions, or even family size – are not able to use

alternative transportation options and may be more reliant on the automobile as the primary means of transportation. ANC 3D also expresses great concern that OP's proposed new rules would undermine the ability of residents to have input as part of the zoning process to ensure new developments include adequate parking. Furthermore, there is already evidence that the existing rules are working to reduce parking that developers and residents determine to be unnecessary and that these existing processes ensure full citizen input unlike the recommendations for rule changes put forward by OP. Given that the existing rules are working – while also providing opportunities for full citizen engagement to address parking issues on a case-by-case basis – ANC 3D believes the existing rules should be maintained.

Subtitle D, Chapter 3 – Residential House Zones, Group 2, Chain Bridge Road/University Terrace; Chapter 8, Residential House Zones, Group 7, Wesley Heights

By a vote of 10-0, ANC 3D voted to support a motion to maintain the existing overlays for Chain Bridge Road/University Terrace (*Chapter 3*) and Wesley Heights (*Chapter 8*) and oppose OP's recommendation for combining the underlying zones with an overlay into a single zone district.

Rationale: Both neighborhoods fall within the boundaries of ANC 3D. These neighborhood residential overlays are community-originated zoning that should be honored. OP's proposal to combine all overlays into a single zone district is inconsistent with the Comprehensive Plan. Overlays are created to distinguish neighborhood interests and needs from the city-wide applied zone district provisions. They typically trump the citywide provisions when there is a conflict and their purposes and goals are the main standards for review of special exception requests. OP's proposal dilutes the boundaries, purposes, and goals and further weakens the review standards by lessening current penalties and adding new provisions. Neighborhood overlays should be preserved in their existing form, including the provisions for special exceptions.

Subtitle D, Chapter 13, Accessory Building Regulations For R Zones

By a vote of 7-3, ANC 3D approved a resolution opposing changes recommended by OP to allow accessory dwelling units (ADUs) in residential zones as a matter of right if ADUs are located within the main house or in an existing accessory structure; but supporting OP's recommendation to revise the zoning regulations allowing an accessory dwelling in a newly constructed accessory structure with Special Exception review. ANC 3D also voted to support giving the DC Department of the Environment (DDOE) an expanded role as part of the Special Exception process for inspecting, testing, and certifying that an existing accessory structure is free of toxic substances prior to its use as an accessory structure. (Formal Resolution Adopted By ANC 3D is attached.)

Rationale: Accessory structures by their nature may alter the character of a single family residential neighborhood and may also have potential parking, traffic, and other impacts. By allowing accessory dwellings in an existing structure or in the main house as a matter-of-right, communities would be denied the opportunity to have input in the process if they determine that such use is inconsistent with the character of the neighborhood or if the ADU may have negative

impacts for the neighborhood. Therefore, ANC 3D supports that such uses should require Special Exception relief. Moreover, the revisions proposed by OP would impose no requirements on owners of ADUs to ensure the health, safety and well-being of ADU occupants. This could be a special concern in those instances in which a garage structure is converted for use as an ADU. Therefore, ANC 3D voted to support new provisions that would mandate DDOE review of the structure as part of the Special Exception review. However, ANC 3D supports language put forward by OP that would allow an accessory dwelling unit in a newly constructed structure with Special Exception review. This would allow for public input into the process.

Subtitle D, Chapter 16 – Use Permissions R Zones (Corner Stores)

By a vote of 7-3, ANC 3D approved a resolution opposing the establishment of corner stores, including corner stores for which the use is a fresh food market or grocery store, by right in R-3 and R-4 zones and further proposes that corner stores should not be built within 1200 feet of an existing commercial zoned property in a neighborhood, such as Foxhall Village, that was built around a central commercial core that is walkable from all points in the neighborhood. (Formal Resolution Adopted By ANC 3D is attached.)

Rationale: OP’s proposal to authorize the establishment of up to four corner stores within 500 feet as a matter of right would undermine the character of a neighborhood, like Foxhall Village. Foxhall Village is primarily a row house neighborhood located within the boundaries of ANC 3D. In recommending new rules, OP cites neighborhoods, like Capitol Hill and Georgetown, to argue for its proposed changes. Unlike Capitol Hill and Georgetown, however, Foxhall Village was built as a planned neighborhood that included a specifically designated location for neighborhood-serving retail. Some homes, however, are located further than 500 feet from the central commercial zoned strip. OP’s one-size-fits-all approach to these rules would undermine and radically alter the character of what is already a walkable community – the type of community that OP is seeking to encourage throughout the city. OP’s proposed new rules also would deny citizens the opportunity to have input into the process. So, ANC 3D recommends that corner stores only be allowed as part of a Special Exception review and that they not be built within 1200 feet of an existing commercially zoned property. This change to OP’s proposal would allow for corner stores in row house neighborhoods without compromising a neighborhood like Foxhall Village that was planned and built with neighborhood serving retail specifically located in a designated commercial area of the neighborhood.

We appreciate the opportunity to provide feedback to the Zoning Commission in this important proceeding. ANC 3D already has provided comments and testified before the Commission on Subtitle X, Chapter 1 – Campus Plans. ANC 3D asks that these recommendations be given “great weight” as outlined in DC law. Thank you very much for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Penny Pagano". The signature is fluid and cursive, with the first name "Penny" and last name "Pagano" clearly distinguishable.

Penny Pagano
Chair

Attachments

cc: The Honorable Vincent Gray
Chairman Phil Mendelson
Councilmember David Catania
Councilmember Vincent Orange
Councilmember David Grosso
Councilmember Anita Bonds
Councilmember Jim Graham
Councilmember Jack Evans
Councilmember Mary M. Cheh
Councilmember Muriel Bowser
Councilmember Kenyan McDuffie
Councilmember Tommy Wells
Councilmember Yvette Alexander
Councilmember Marion Barry
The Honorable Eleanor Holmes Norton
The Honorable Darrell Issa
Senator Tom Carper, Chairman of the Senate Committee on Homeland Security and Governmental Affairs

ANC 3D Resolution On New Parking Rules

Whereas, the DC Office of Planning (OP) is proposing revisions in the current zoning regulations updating parking requirements for new developments;

Whereas, OP notes the revisions will have the effect of removing minimum parking requirements for new development in the downtown area; reduce parking requirements in mixed use and apartment zones within easy walking distance of “good transit;” change parking formulas to require institutions, such as private schools, to provide less parking, and new apartment buildings to offer less parking; and reduce parking requirements for new single family, semi-detached, or row houses;

Whereas, OP has justified the revisions on the basis that approximately 1/3 of DC households do not own a car; that parking requirements increase the cost of housing; and that the city’s regulations should encourage alternative transportation uses, such as public transit, bicycles, and walking;

Whereas, the number of automobiles registered in DC continues to increase with latest statistics from the District Department of Motor Vehicles (DMV) indicating that the number of registered vehicles in DC has increased by 3.5 percent since 2010, but this figure does not even include the number of cars belonging to resident diplomats, military personnel, college students, and others who are exempted from registering their cars in DC, but who live and work in DC;

Whereas, it is estimated that 500,000 commuters enter DC each year, many of whom drive and seek parking downtown or in other areas of the city;

Whereas, parking supply in the city serves not only DC residents, but commuters, tourists, other visitors, and service providers, and the demand for parking continues to increase in nearly all parts of the city;

Whereas, OP’s rules are particularly insensitive to the diversity of DC’s population and fail to recognize the needs of all DC residents, who at different stages of life when – due to age, physical conditions, or family-related conditions, including family size – are not able to use alternative transportation options and may be more reliant on the automobile as the primary means of transportation and require access to parking;

Whereas, OP is seeking to reduce parking as a way to achieve other societal goals, but its revisions are not grounded in an actual assessment or forecast of the city’s parking needs and the proposed revisions do not reflect an assessment of the city’s parking needs;

Whereas, OP’s rules would undermine the ability of residents to have input as part of the zoning process to ensure new developments – whether in downtown or in primarily residential neighborhoods – include adequate parking or do not have an adverse impact on parking supply and related traffic issues;

Whereas, the goals of OP can be achieved through the variance process where on a case-by-case basis, the Zoning Commission, OP, the District Department of Transportation (DDOT), ANCs, citizens associations, and residents can engage with one another to assess and determine specific parking needs tied to a new development;

Whereas, there are already demonstrated instances in which the current regulations have proven effective in reducing parking that developers and residents determined to be unnecessary – with full citizen input –indicating that the existing rules are working effectively;

Therefore, be it resolved, ANC 3D opposes the revisions proposed by OP and calls on the Zoning Commission to maintain the existing zoning rules on parking.

(Adopted December 4, 2013)

ANC 3D Resolution On Accessory Dwellings

Whereas, current zoning regulations allow accessory dwelling units (ADUs) by Special Exception review subject to certain criteria and conditions;

Whereas, the Office of Planning (OP) is proposing to revise the current zoning regulations to allow accessory dwelling units as a matter of right in residential zones if ADUs are located within the main house or in an existing accessory structure;

Whereas, the OP is proposing also to revise the current zoning regulations to allow accessory dwelling units in newly constructed accessory buildings by Special Exception;

Whereas, OP has outlined four reasons for the revisions:

- Accessory apartments can help homeowners have additional income improving opportunities for home ownership and increasing the amount of rental housing;
- Accessory units will enable residents to “age in place;”
- Accessory units will create additional housing options to make neighborhoods more accessible to a diverse population; and
- Accessory units will put additional “eyes on the street” improving neighborhood security;

Whereas, accessory dwelling units – by their nature – may alter the character of a single family residential neighborhood and may also have potential parking, traffic, and other impacts;

Whereas, the revisions proposed by OP impose no requirements on owners of accessory dwelling units to ensure the health, safety, and well-being of the ADU occupants, especially ADUs that may have been garages where dangerous toxic substances may have been stored or been absorbed into the ground/foundation;

Whereas, OP’s zoning revisions would eliminate the opportunity for a resident to oppose the establishment of an accessory dwelling unit, if they consider it inconsistent with the character of the neighborhood or if the ADU may have negative consequences for the neighborhood, including negatively impacting neighboring property values;

Whereas, OP’s goals in revising the ADU regulations can be achieved without allowing ADUs as a matter of right;

Therefore, be it resolved, ANC 3D calls on the Zoning Commission to:

- Continue to require Special Exception approval of all accessory dwelling units located in a main house or an existing accessory structure, as is now required by current regulations and under the current standards;
- Require the District Department of the Environment (DDOE) to inspect, test, and certify that an existing accessory structure is free of any toxic substances prior to its use as an accessory dwelling unit as part of the Special Exception review; and

- Supports OP's recommendation to revise the zoning regulations allowing an accessory dwelling unit in a newly constructed accessory structure with Special Exception review consistent with standards that require the accessory dwelling's use to fit the character of the neighborhood and create no objectionable conditions for neighbors.

Adopted December 4, 2013

ANC 3D Resolution On Corner Stores

Whereas 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 3D includes the neighborhood of Foxhall Village, which is principally zoned R-3 and is mostly row homes.

Whereas Proposed Chapter 16 at 1606, (hereinafter the “Corner Store Proposal”) 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.

Whereas 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.

Whereas 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.

Whereas 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.

Whereas 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.

Whereas The DC Office of Planning states in its ZRR corner store fact sheet (dated Oct. 2013) that corner stores are small commercial establishments in otherwise lower density residential areas, that many DC neighborhoods have a tradition of corner grocery stores – Capitol Hill and Georgetown for example, but there are some corner stores in virtually every part of the city, that many of the existing businesses were built as corner stores, to serve the local resident population, and that corner stores can help to build neighborhood cohesion, add convenience to residents, and lessen traffic congestion.

Whereas Foxhall Village is a triangularly shaped neighborhood bounded by Reservoir Road to the north, Foxhall Road to the west, and Glover Archbold Park to the east.

Whereas unlike the Capitol Hill and Georgetown neighborhoods, which grew organically over many years, Foxhall Village was built as a planned neighborhood that included a specifically designated location for neighborhood serving retail.

Whereas Foxhall Village neighborhood serving retail is located in a central commercially zoned strip fronting Foxhall Road, which is a busy thoroughfare.

Whereas some homes located in Foxhall Village are further than 500 feet from the central commercially zoned strip fronting Foxhall Road.

Whereas Foxhall Village is an example of a walkable community that the Office of Planning is attempting to encourage with its corner store proposal.

Whereas adding corner stores in blocks of Foxhall Village that are more than 500 feet from the existing Foxhall Village commercial center would change the character of Foxhall Village as a residential village surrounding a commercial center.

Whereas increasing the distance from 500 feet from an existing commercially zoned property to 1200 feet would prevent row houses in Foxhall Village from being converted into corner stores.

Wherefore, Advisory Neighborhood Commission 3D:

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 3D because there is no notice to residents and no opportunity for them to object.
2. Proposes that for established row-house neighborhoods built around a central commercial core that is walkable from all points in the neighborhood, such as Foxhall Village, corner stores may not be built within 1200 feet of an existing commercially zoned property. This change to OP's proposal will allow for corner stores in rowhouse neighborhoods without compromising a neighborhood like Foxhall Village that was planned and built with neighborhood serving retail specifically located in a designated commercial area of the neighborhood.

Adopted December 4, 2013

ANC 3D Resolution On Overlays

Whereas, neighborhood residential overlays are community originated zoning that should be honored;

Whereas, the Wesley Heights Zoning Overlay and the Chain Bridge Road/University Terrace Tree and Slope Overlay are located within ANC 3D;

Whereas, the Comprehensive Plan encourages overlays, yet the Office of Planning has removed them in its rewrite of DC's zoning regulations;

Whereas, overlays are created to distinguish neighborhood interests and needs from the citywide-applied zone district provisions;

Whereas, overlays typically trump the citywide provisions when there is a conflict, and their purposes and goals are the main standards for review of special exception requests;

Whereas, the Office of Planning proposal dilutes the boundaries, purpose and goals of the overlays, and they weaken the review standards by lessening current penalties and adding new provisions in conflict with the Comprehensive Plan and the directives from the Zoning Commission at the concept stage of ZRR review.

Therefore, be it resolved, neighborhood overlays should be preserved in their existing form, including the provisions for special exceptions, as the Office of Planning promised; and

Be It Further Resolved, that ANC 3D recommends that there be no changes in the ZRR to the Wesley Heights Zoning Overlay or the Chain Bridge Road/University Terrace Tree and Slope Overlay; and

Be It Further Resolved, the proposals from the Office of Planning to combine the underlying zone with an overlay into a single zone district should not be approved.

Adopted December 4, 2013