Advisory Neighborhood Commission 1C

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Representing Adams Morgan

Commissioners:

Brian Hart (1C01)

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Billy Simpson (1C06)

Wilson Reynolds (1C07)

Jimmy Rock (1C08)

April 10, 2014

Zoning Commission
zcsubmissions@dc.gov

Re: ANC 1C resolutions regarding ZRR

Dear Zoning Commission:

Attached are six resolutions that ANC 1C passed at its April 2, 2014 meeting that concern the Zoning Regulation Rewrite.

Best Regards,

Jimmy R. Rock

Jimmy Rock
Commissioner, ANC 1C08
Chair, ANC 1C Planning, Zoning & Transportation Committee

Resolution of Advisory Neighborhood Commission 1C Concerning the Ongoing Review of the DC Zoning Regulations

Subtitle G – Mixed Use Zones

Maintaining the integrity of mixed residential-nonresidential zoning in Adams Morgan

1. ANC 1C notes that the District of Columbia's Office Planning (OP), following the 2006 adoption of a revised Comprehensive Plan that is required by law to guide land-use policies including zoning, undertook a comprehensive Zoning Regulations Review (ZRR) , and that OP has now submitted its final draft of proposed new regulations to the Zoning Commission for consideration and action,

2. Regarding Subtitle G of that draft, concerning Mixed Use Zones, ANC1C notes:

A. The mixed used zones applicable to Adams Morgan, including Reed-Cooke, as adopted in 1958 and first amended were such as to encourage demolition, high-rise development and straight commercialization,

B. The present configuration of these zones is a result of three cases before the Zoning Commission initiated by Adams Morgan citizens that significantly remedied these conditions by lowering the C-2-B height limit from 90 to 65 feet, eliminating the possibility of straight commercialization of individual buildings (in the "Article 54" case), and doing away with industrial zoning in Reed-Cooke (through the Reed-Cooke overlay),

C. At present Adams Morgan's commercial strips are zoned for mixed residential and non-residential use – C2-A and C2-B, which prescribe a limit on the floor area that can be devoted to commercial or other non-residential use, namely, 1.5 FAR out of a total allowable of 2.5 for C2A and 3.5 for C2B,[1]

D. Genuinely mixed-use zoning is an integral part of the diverse fabric of the Adams Morgan neighborhood,

E. Subtitle G of the proposed regulations proposes certain changes that would have the effect of downgrading and diminishing the residential component of these mixed use areas, including

- eliminating the existing 60% and 80%maximum lot occupancy maximums,[2] a principal function of which is to ensure light and air to residentially-used portions of a building, while at the same time providing that the 15-foot rear setback is

[1] See G-301.1 and G-901.1.
[2] See G-301.1 and G-901.1.

to be measured from the center of the pubic alley,[3] with the result that a building can occupy the entire lot except for a narrow setback at the rear, thereby degrading the residential use and increasing the likelihood of alley congestion in the course of deliveries and trash collection;

• providing a matter-of-right increase of permitted non-residential FAR, from 1.5 to 2 for buildings on lots of 10,000 square feet or less in areas [4]-- the great majority of mixed-use buildings in Adams Morgan – constituting a further gratuitous creep toward predominant commercialization of our mixed-use areas, especially by already over-concentrated restaurant and tavern ABC licensed establishments,

3. ANC 1C believes these changes to be unwarranted and harmful to Adams Morgan's special diverse character,

4. Therefore it is resolved that ANC 1C requests the Zoning Commission, as regard at least zones M-4, M-5, M-33 and M-34, the mixed use zones applicable to Adams Morgan, to

- restore the 60% and 80% lot occupancy maximums,

- provide for rear setback from the rear lot line for all portions of a building, and

- eliminate any increase in permissible non-residential FAR.

At its duly-noticed and public meeting on April 2, 2014, with a quorum present, ANC 1C passed the foregoing resolution by a vote of 5-0-0.

[3] See G-305.3, 305.4, 905.3 and 905.4.
[4] See G-303.2 and 903.2.

Resolution of Advisory Neighborhood Commission 1C Concerning the Ongoing Review of the DC Zoning Regulations

Subtitles F (Apartment Zones) and G – (Mixed Use Zones)

Protecting row houses from excessively permissive roof structure height and setback provisions

1. ANC 1C notes that the District of Columbia's Office Planning (OP), following the 2006 adoption of a revised Comprehensive Plan that is required by law to guide land-use policies including zoning, undertook a comprehensive Zoning Regulations Review (ZRR) , and that OP has now submitted its final draft of proposed new regulations to the Zoning Commission for consideration and action.

2. In connection with the height by which roof structures may exceed the allowable height of the building on which they are located, ANC 1C notes the following:

A. For many zone districts in Subtitles F ("Apartment") and G ("Mixed Use") zones, including those applicable in Adams Morgan, the maximum height of a roof structure under the proposed regulations is 18.5 feet.

B. For a large eight or ten story building, this constitutes a small proportion of the overall height and may well be hardly noticeable, but in a neighborhood of rowhouses mainly 40 feet or less in height such as Adams Morgan, an 18.5 foot box looming over the building is proportionately a very big and visually intrusive increase in the building's height and mass, and

C. Presumably in recognition of this fact, the roof structure maximum height in the special Capitol Hill A district (presently R-5-B) and in the RF zones (presently R-4), also predominantly rowhouse areas, is 10 feet, and there is no perceptible reason why this limit should not also apply in rowhouse areas in all the proposed Apartment and Mixed Use zones.

3. In connection with the distance by which roof structures must be set back from the exterior walls of the building , ANC 1C notes the following:

A. For many zone districts in subtitles F (Apartment) and G (Mixed Use), in order to reduce their visual impact, roof structures must be set back from the front wall by a distance equal to their height and from a side wall by a distance equal to half their height, but no setback is required form a side wall adjoining another building, on the theory that in this situation the adjacent building would substantially shield the roof structure from street view.

B. As can be seen in Adams Morgan and elsewhere, this theory does not hold where the adjacent building is significantly lower than that on which the roof structure is located: in this situation a roof structure flush with the side of such a building can be quite intrusive visually.

C. The Comprehensive Plan contains a provision specifically intended to deal with this problem by requiring that party walls of row houses be regarded as exterior walls,[1] but it has not been implemented in the roof structure setback provisions in the Apartment and Mixed Use zones mentioned.above.

D. Additionally, these roof structure setback provisions in the Apartment and Mixed Use zones are in conflict with the formula for roof structure setback provided in Subtitle C ("General Rules") §505.2(e), which requires set back by a distance at least equal to the height of the roof structure from "any wall abutting a lot line and being taller than the greater of the adjacent building's existing or by-right height."

E. Both the problem of internal inconsistency in the proposed regulations and the problem of inadequate protection against visually intrusive roof structure would be solved by substituting the formula provided in C §505.2(e) in place of the corresponding setback formula in the roof structure provisions for the A(Apartment) and M (Mixed Use) zones,

4. Therefore it is resolved that ANC 1C urges the Zoning Commission to

- Limit the height of roof structures in the A and M zones to 10 feet, and
- Apply the side-wall setback formula provided in C §505.2(e) in place of the corresponding setback formula in the roof structure provisions for the A and M zones.

At its duly-noticed and public meeting on April 2, 2014, with a quorum present, ANC 1C passed the foregoing resolution by a vote of 5-0-0.

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[1] *Action LU-2.1.B: Amendment of Exterior Wall Definition*
Amend the city's procedures for roof structure review so that the division-on-line wall or party wall of a row house or semi-detached house is treated as an exterior wall for the purposes of applying zoning regulations and height requirements.

ANC 1C Resolutions for the Zoning Regulations Rewrite

Resolution Concerning Overlays

Resolved that ANC1C recognizes that the Reed-Cooke Overlay District came into existence as the result of laborious grass-roots efforts by local resident volunteers. Resolved that ANC1C recognizes that other Overlay Districts within the city share a comparable history, and accordingly feels that the special status of Overlay Districts should be reflected in the organizational structure of the Zoning Regulations. Resolved that ANC1C calls on the Zoning Commission to preserve the existing Zoning Overlay Districts in a separate Subtitle within the Zoning Regulations Rewrite. Within such Subtitle, there could be one Chapter for each of the current Overlays. Overlays that contain multiple zoning districts, could then have Sub-Chapters for each of those zones. In that manner, readers would still be able to refer to just a single Chapter (or Sub-Chapter) for all of the information pertaining to the lot they are interested in. But at the same time, it would remain clear that the characteristics of their lot is tied to the characteristics of other nearby lots based on their common history as part of an Overlay.

Resolution Concerning Inclusionary Zoning

Resolved that ANC1C calls on the District to strengthen its inclusionary zoning regulations by (i) establishing formulas for determining the amount of a building that must be set aside for inclusionary zoning that would make the District a leader in the nation, and (ii) lowering the thresholds of Area-Median-Income to which inclusionary zoning units must be accessible so as to take account of the fact that the Area-Median-Income figures for the District are unusually high due to the atypical concentration of high-income-earning residents who live in the surrounding metropolitan area.

At its duly-noticed and public meeting on April 2, 2014, with a quorum present, ANC 1C passed the foregoing resolutions by a vote of 5-0-0.

Resolution of Advisory Neighborhood Commission 1C
Concerning the Ongoing Review of the DC Zoning Regulations

Subtitle F – "Apartment" Zones

Protection of Adams Morgan's Residential Neighborhoods from Intrusion of New Commercial and other Non-residential Uses

1. ANC 1C notes that the District of Columbia's Office Planning (OP), following the 2006 adoption of a revised Comprehensive Plan that is required by law to guide land-use policies including zoning, is engaged in a comprehensive Zoning Regulations Review (ZRR) , and that OP has now submitted its final draft of proposed new regulations to the Zoning Commission for consideration and action.

2. Regarding Subtitle F of that draft, designated "Apartment" zones, ANC1C notes:

A. The predominately row house residential neighborhoods of Adams Morgan and similarly situated areas now zoned R-5B Residential or higher would no longer be denominated "Residential" as in the current Zoning Regulations but would be designated "Apartment" districts,

B. In previous OP drafts a wide variety of new commercial and other non-residential uses were to be allowed in "Apartment" districts as a matter of right or by special exception, all uses falling under the general categories of "retail", "service", "eating and drinking establishments", and "arts design and creation", and including, among many other examples listed in the proposed Subtitle B: pawn shop, beer and wine carryout, appliance repair shop, grocery store, bank, yoga center, travel agency office, fast food establishment, delicatessen, dry cleaner, real estate agency office, shoe repair shop, recording studio, metal working shop and sales, café, and any other uses that the Zoning Administrator might be persuaded to find to be suitably "compatible" with like permitted uses;

3 . Beginning in 2009, OP and/or the Zoning Commission heard opposition to this change, on the basis of considerations such as the following:

• Adams Morgan has a decades-long history of struggle to preserve its residential areas and resist intrusion of commercial uses into its residential neighborhoods, as exemplified by its opposition to freeways and urban renewal proposals, the Zoning Commission's 1980 ban on hotel expansion into residential neighborhoods (which emanated from Adams Morgan), the Reed-Cooke overlay that replaced industrial zoning for that neighborhood, the home occupation regulations, and the prosecution of various individual zoning cases;

• OP's commendable stated objective in advancing its proposals for R-5 and other districts on this and other subjects has been to promote environmental sustainability by creating "walkable neighborhoods" and reducing reliance on cars,

• Adams Morgan's residentially zoned areas lie in close proximity to commercial areas along Columbia Road, 18th Street, Florida Avenue and U Street as well as Connecticut Avenue and portions of Calvert Street, Adams Mill Road and Kalorama Road that provide walkable access to a wide variety of commercial establishments, including convenience stores that have long been allowed, and under the proposed new regulations would continue to be allowed, in the substantial number of large apartment buildings that are interspersed among Adams Morgan rowhouses,

•OP's own research shows that Adams Morgan already has a number of holdover nonconforming and other commercial uses located within its residential areas,

•OP's own research shows that Adams Morgan ranks among the city's best neighborhoods as regards "access to healthy living", considering the ready availability of grocery, pharmacy and certain other facilities in its adjacent commercial areas,

• For these reason Adams Morgan residential areas are already eminently "walkable neighboroods" having no need for new rules allowing commercial establishments to take over living space in their midst;

•By contrast to provisions that would allow non-resident commercial operators to displace residents and take over residential space, the Zoning Regulations have long allowed, and would continue to allow, Adams Morgan residents to pursue certain "home occupations" in their own residence, under conditions that maintain and respect the residential character of the neighborhood,

•Converting space in residential buildings to commercial and other non-residential uses, other than as authorized "home occupations" operated by residents in their own home, would both degrade the character of Adams Morgan's residential neighborhoods and erode the residential base on its which schools, commercial strips and community activities depend.

•Such conversion would also create gratuitous competition for existing businesses in Adams Morgan's commercial strips and for owners seeking productive use of their commercially zoned properties, which would be especially damaging at a time of sluggish economic recovery.

•The desire of non-residential users to modify buildings to accommodate commercial or other non-residential enterprises would add one more incentive to deface Adams Morgan residential row houses and apartment buildings.

•The District's Comprehensive Plan contains numerous provisions intended to preserve the integrity of residential row house neighborhoods and contains nothing that would justify the proposed commercialization of Adams Morgan residential neighborhoods.

4. Additionally, OP's earlier drafts would have carried forward an anachronistic provision allowing conversion of large historically designated apartment buildings in "Apartment" districts such as Adams Morgan to office use by non-profit enterprises; opposition was also expressed to this provision, which would make possible the conversion of entire apartment buildings in Adams Morgan's historic districts to non-residential use.

5. Accordingly, OP's final ZRR draft now before the Zoning Commission omits the provisions that would have allowed new commercial and other non-residential uses, as well as the provision allowing non-profit office use of large historic apartment buildings, in Adams Morgan and other "Apartment" areas.

6. Therefore it is resolved that ANC 1C

- Commends OP for having dropped the proposal to allow new commercial and office uses to intrude into residential neighborhoods under the new “A” zoning,

- Urges the Zoning Commission to reject any suggestion that those uses be reinstated in whole or in part,

- Notes, however, that in other respects, the “A” zoning is inadequate to protect those rowhouse neighborhoods from ”pop-ups” and other grossly excessive over-redevelopment, and should be considered for downzoning in appropriate areas.

At its duly-noticed and public meeting on April 2, 2014, with a quorum present, ANC 1C passed the foregoing resolution by a vote of 5-0-0.

Resolution of Advisory Neighborhood Commission 1C Concerning the Ongoing Review of the DC Zoning Regulations

Subtitle E – "Residential Flat" Zones

1. ANC 1C notes that the District of Columbia's Office Planning (OP), following the 2006 adoption of a revised Comprehensive Plan that is required by law to guide land-use policies including zoning, undertook a comprehensive Zoning Regulations Review (ZRR) , and that OP has now submitted its final draft of proposed new regulations to the Zoning Commission for consideration and action.

2. Concerning Subtitle E of that draft, "Residential Flat Zones", ANC 1C notes the following:

A. Subtitle E proposes new Zones RF-1, -2, and -3 to replace the current R-4 zone, and, in response to a mandate in the Comprehensive Plan, two new rowhouse zones RF-4 and -5.

B. the new RF-4 and -5 zones are intended principally to make it possible for areas like Adams Morgan to replace current R-5-B and higher R-5 (proposed A-=2 and higher) zoning in neighborhoods having larger rowhouses with zoning more compatible with the physical character and general ambience of those neighborhoods.

C. As a result of the overly permissive development standards applicable in the existing R-5-B and higher zoning in Adams Morgan, including in particular the absence of any limitation on the number of units that may be located in a building, Adams Morgan is increasingly threatened by often grotesque multi-unit "pop-ups" and other over-redevelopment of its rowhouses both within and outside of its historic districts.

D. The current R-5-B and higher zoning is itself an historical anomaly, in that the Lewis Plan, on which the 1958 code was based, envisaged a lower density residential zoning -- R-4, which has a limit of two units per rowhouse -- for Adams Morgan and much of Dupont Circle, but that position was changed by the District Commissioners under the then-prevailing view that these neighborhoods as built were blighted and could usefully be demolished to the extent needed to make way for the Inner Loop Freeway and the Adams Morgan Urban Renewal Plan. (Both of these projects were subsequently defeated, but R-5 zoning was left intact.)

E. The two new zones, by revising development standards, including height and lot occupancy, limiting the height of roof structures and number of stories and imposing a limit on the number of dwelling units that a building may contain to 3 and 4 units respectively for RF-4 and -5, would go a long way in areas of larger rowhouses toward eliminating the unsightly pop-ups, ruined facades and bulging rear additions that have resulted when developers cram six or eight or more units into a row house.

F. There is substantial interest among homeowners in Adams Morgan in exploring the possibility of downzoning appropriate areas either to RF-1, with its two-unit limit, or to RF-4 or -5, with their limits of 3 and 4 units.

3. However, the proposed Subtitle E would present three obstacles to that downzoning, which the Zoning Commission should correct:

(1) Non-residential uses in residential neighborhoods.

Subtitle E would authorize in all the RF zones.a wide range of new commercial and other non-residential uses under the rubric of "corner stores."

In Subtitle F, OP properly eliminated these non-residential uses from R-5-B and higher (A-2 and higher) residential neighborhoods, in view of the specific characteristics of those neighborhoods and the resulting inapplicability of the stated rationale for so-called "corner store" uses (as outlined in a separate ANC 1C resolution on subtitle F).

These are the same R-5 neighborhoods where the two new rowhouse zones are principally intended to be considered for future mapping. Therefore, for the same reasons, these commercial and other non-residential uses should be eliminated from the two new rowhouse zones RF-4 and -5 as well as from any RF-1 district resulting from a future downzoning from R-5.

(2) *Allowing conversion of row houses to "apartment houses"*

Proposed §E- 600, carrying forward a provision in the existing regulations, enables conversion of houses to apartment houses, which by definition contain 5 or more units, so long as the lot has 900 square feet of area per unit. – notwithstanding the two-unit limit.

§E- 600 limits such conversion to RF-1, -2 or -3, excluding the new rowhouse zones RF -4 and -5. But a conflicting provision -- §E-504.4 -- appears to envisage conversion of houses to apartment houses in the two new row house zones as well. Since this latter provision is apparently rendered without legal effect by E-600, and since in any event it would flatly negate the purpose of the RF zones to limit the number of permissible units per house, it should be deleted.

The existing provision that §E-600 would carry forward has resulted in much damaging over-redevelopment in R-4 areas with large lots, most notably in Mount Pleasant, and to that extent negates the stated purpose of the present R-4 and the proposed RF-1, -2 and -3 zoning to limit the number of permissible units to two per building,. It should therefore be deleted altogether.

(3) *Omission of limit on allowable floor area for rowhouses in the RF-4 and -5 zones*

Proposed Subtitle E has omitted “floor area ratio” (FAR) limits for row dwellings in RF-4 and -5 (as well as detached and semi-detached dwellings), while setting a 1.8 FAR limit for all other structures – which is the same as the current FAR limit for R-5. Limitations on total allowable floor area are very important in controlling pop-ups and other bulging re-development projects, and 1.8 FAR should be the rule for all structures at least in these two RF districts.

4. Therefore it is resolved that ANC 1C

•Welcomes the proposed two new rowhouse zones RF-4 and RF-5,

• Urges the Zoning Commission to

□ Eliminate the proposed commercial and other non-residential uses from the two new rowhouse zones RF-4 and -5 as well as from any RF-1 district resulting from future downzoning from and R-5 district.

□ Strike §E- 504.4,

□ Strike §E- 600.

□ Set an FAR limit of 1.8 for the proposed RF-4 and -5 zones.

At its duly-noticed and public meeting on April 2, 2014, with a quorum present, ANC 1C passed the foregoing resolution by a vote of 7-0-1.