

Reed-Cooke Neighborhood Association

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THE ZONING REGULATIONS REVIEW (ZRR)

ZONING COMMISSION CASE No. 08-06A

MONDAY SEPTEMBER 8, 2014 AT 6:00 P.M.

TESTIMONY OF THE REED-COOKE NEIGHBORHOOD ASSOCIATION

Reference: Subtitle K: Reed-Cooke Overlay District (RCOD)

Good evening Mr. Chairman and members of the Commission. My name is Bénédicte Aubrun and I will be testifying on behalf of the Reed-Cooke Neighborhood Association (RCNA) about the Reed-Cooke Overlay District (RCOD), subtitle K of the Zoning Regulations Review (ZRR). I want to thank the Commission for this opportunity.

We understand from the June 16, 2014 Office of Planning memo, that the RCOD will be reassembled and moved to Subtitle K, but no text has been provided for the new overlay. Our hope is that the text of the existing overlay (as currently embodied in DC law) will simply be added to Subtitle K, with no changes beyond re-numbering provisions and translating zone names. This would address the detailed concerns we have previously expressed to OP and that are submitted as written testimony to you tonight in a 10 page technical presentation.

What we do NOT want to see is the previously proposed "set-down" text¹ simply reorganized and relocated rather than substantially revised to give us at least the same protections we have now.

In any event (existing text, set-down text, new text) we need to see WHAT the proposed text says and have an opportunity to comment on its substance. It's not sufficient for OP simply to say that the Reed-Cooke overlay will be moved to Subtitle K and for you to assume that our concerns have been addressed, without actually providing us an opportunity to review the actual text that will be included in the code.

1

Subtitle A-6, 7; A-9, 10; Subtitle C-103/105; Subtitle F-11, 12; F-15,16; F-29 to 38; Subtitle G-40 to 43; G-55; G-74 to 81; Subtitle X-3, 4; X-7; X-10; X-20; Subtitle Y-61, 62; Subtitle W-6).

On February 26, 2014, my colleague Peter Lyden testified before you on the RCOD exposing the concerns of the community on the proposed ZRR changes for the Reed-Cooke Neighborhood of Adams Morgan. I won't repeat what was said but I ask the Commission to please refer to Mr Lyden's testimony.

Subtitle K is devoted to "special purpose zones". One Comprehensive Plan element speaks specifically and very positively about the purpose of the Reed Cooke overlay: "**Policy MC- 2.4.5: Reed-Cooke Area** Protect existing housing within the Reed Cooke neighborhood, maintaining heights and densities at appropriate levels and encouraging small-scale business development that does not adversely affect the residential community." However, the ZRR as currently drafted undoes and attacks many of the safeguards that are in place to protect the scale and predominantly residential character of our neighborhood.

The RCOD was established in Adams Morgan to fulfill special purposes for the community. Those crucial elements are:

- To protect existing housing and provide for the development of new compatible housing
- To protect and limit heights to 40 feet except in C-2B where greater height is permissible in a building that creates affordable housing for people with low/moderate incomes. In exchange for extra height, this overlay provision a higher standard of affordability than IZ. And this is an element of the RCOD we want to retain (**Chapter 14 1402.1 of the existing overlay**)
- To restrict the PUD process and ensure that no project shall exceed the matter-of-right height, bulk and area requirements of the underlying district
- To maintain densities at appropriate levels
- To encourage small-scale business development that will not adversely affect the residential community
- To ensure that new non-residential uses serve the local community by providing retail goods, personal services, and other activities that contribute to the satisfaction of unmet, social, service, and employment needs in the Reed-Cooke and Adams Morgan community
- To protect adjacent and nearby residences from damaging traffic, parking, environmental, social and aesthetic impacts
- To create a clear and set-rules for local development, written in language that both neighbors and developers can understand

- To anticipate conflicts between zones and the overlay and provide rules for adjudicating those conflicts The underlying rule is that the most restrictive provisions win

In a few words, we clearly have a solid established residential area, and the overlay continues to work well for us We urge that zoning designations be reexamined with an eye to prevent the intrusion of non compatible residential and non-residential uses, and deleting the provisions allowing conversion of houses to apartments, pop-ups and change in height For example, in the last 4 years, we have had three explicit applications of the RCOD They are the Adams Morgan Church, and a proposal to build an 85-foot building at 1711 Florida Avenue and now a redevelopment of a parking lot on Ontario Road In each case, clear provisions of RCOD were applied This demonstrates that the RCOD in its present form is as relevant today as when the Zoning Commission carefully and thoughtfully enacted it

One other point to mention, RCNA believes the Board the Zoning Administrator should not be able to arbitrarily interpret the code without neighborhood input We prefer the current overlays explicit prohibition of certain uses to the ZRR proposed system of broader categories and prohibition by omission The latter approach leaves too much interpretation to the Zoning Administrator

The ZRR version of the overlay is ambiguous, confusing to read, redundant and with internal contradictions that RCNA has been able to detail in the attached presentation

The previous proposed RCOD has too many exceptions to the height requirements compared to the existing overlay And this is not acceptable and we see it more as a way of weakening our overlay

There is a cross walk from the RCOD to the ZRR, however we noted that parts of the overlay in the previously proposed version were deleted, terms were changed, and it no longer read with the force that was intended. These changes degraded the intent and application from what we have today

RCNA remains satisfied with the current overlay description that was created back in 1991. RCNA would be pleased to see it included in Subtitle K as is We believe after thorough analysis that the proposed RCOD is too fragmented to be manageable and is written in favor of developers at the expense of the well being of the community

RCNA urges the Commission not to approve Subtitle K on the overlays without reviewing the RCNA's technical presentation attached to this testimony. And giving RCNA a chance to see and comment on the proposed text of our overlay In general, we believe that the overlays are an important planning tool and should not be abandoned. Judging from the testimony of other neighborhood associations, who have testified in support of their own overlays, we are not alone in this belief

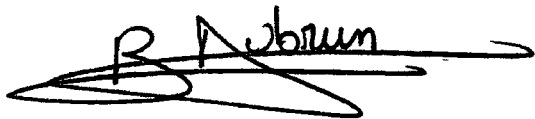
It is important to allow the general users to understand what they can and cannot do, and make the text as explicit as possible as to what is "prohibited" And it is important that planning addresses the unique challenges and aspirations of various neighborhoods

RCNA doesn't consider this review as an update or adjustment on overlays, but on the contrary RCNA sees it more as a total rewrite of the regulations on a system that has worked for the community for many years Overlays make sense and are necessary

RCNA is providing the Zoning Commission specific recommendations of the discrepancies we have found in the previously proposed regulations, as well as our concerns and proposals to rectify major problems we have with the contents of the ZRR

RCNA urges the Commission not to proceed with any votes on the ZRR until the Comprehensive Plan has had a chance to be reviewed by residents and approved by the City Council This is the normal order, the Comprehensive Plan provides the foundation, and as such precedes any review on zoning regulations, and this order should be honored

Thank you for your time and consideration

A handwritten signature in black ink, appearing to read "B. Aubrun", with a large, stylized flourish underneath.

Bénédicte Aubrun
Reed-Cooke Neighbor Association
At-Large and ABC Liaison

**THE REED-COOKE
OVERLAY**

The map displays the following zoning districts and features:

- Zoning Districts:** R-5-B, R-5, D/R-5-B, SQ, C-2-A, and R-5-D.
- Streets:** Columbia Rd NW, Euclid St NW, 17th St NW, 18th St NW, Florida Ave NW, and 19th St NW.
- Key Locations:** Reed-Cooke Station, Reed-Cooke Station, and Reed-Cooke Station.
- Map Features:** The map includes a title, a legend, and a scale bar. The legend identifies the various zoning districts and the Reed-Cooke Station. The scale bar indicates distances in feet and miles.

1400 GENERAL PROVISIONS (RC)

- 1400 1 The Reed-Cooke (RC) Overlay District shall be applied to the portions of Squares 150, 2557, 2558, 2560, 2562, 2563, 2566, 2567, and 2572 in the Reed-Cooke Special Treatment Area, as defined in the Comprehensive Plan, 10 DCMR § 1127, that are zoned nonresidentially as of January 1, 1989.
- 1400 2 The purposes of the RC Overlay District shall be to:
- (a) Implement the objectives of the Reed-Cooke Special Treatment Area, which are to:
 - (1) Protect current housing in the area and provide for the development of new housing;
 - (2) Maintain heights and densities at appropriate levels; and
 - (3) Encourage small-scale business development that will not adversely affect the residential community;
 - (b) Ensure that new nonresidential uses serve the local community by providing retail goods, personal services, and other activities that contribute to the satisfaction of unmet social, service, and employment needs in the Reed-Cooke and Adams-Morgan community;
 - (c) Protect adjacent and nearby residences from damaging traffic, parking, environmental, social, and aesthetic impacts; and
 - (d) Ensure the preservation and adaptive reuse of the First Church of Christ Scientist building located on Lot 872 of Square 2560, through a planned unit development process.
- 1400 3 The RC Overlay District and the underlying commercial and residential zone districts shall together constitute the zoning regulations for the geographic area identified in § 1400.1
- 1400 4 Where there are conflicts between this chapter and the underlying zone district, the more restrictive regulations shall govern.
- 1400.5 In addition to other applicable provisions of this title, the requirements of this chapter shall apply to:
- (a) All new construction,
 - (b) All additions, alterations, or repairs that, within any eighteen (18) month period, exceed in cost fifty percent (50%) of the assessed value of the

structure as set forth in the records of the Office of Tax and Revenue on the date of the application for a building permit;

- (c) Any use that requires a change in the use listed on the owner's or lessee's certificate of occupancy; and
- (d) Any existing use that requires a new permit from the Alcoholic Beverage Control Board

1400.6 If there is a dispute between the property owner and the Zoning Administrator about the cost pursuant to § 1400.5(b), the cost shall be determined by the average of the estimates furnished by three (3) independent qualified contractors selected in the following manner:

- (a) The first shall be selected by the owner;
- (b) The second shall be selected by the Zoning Administrator; and
- (c) The third shall be selected by the first two (2) contractors.

1400.7 The estimates provided for by § 1400.6 shall be prepared and submitted according to a standard procedure and format established by the Zoning Administrator.

1400.8 The cost of estimates shall be at the expense of the property owner

SOURCE Final Rulemaking published at 38 DCR 2386 (April 26, 1991), as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8447-48 (October 20, 2000), as corrected by Errata Notice published at 58 DCR 4314, 4315 (May 20, 2011), as amended by Final Rulemaking published at 60 DCR 3635 (March 15, 2013)

1401 USE PROVISIONS (RC)

1401.1 The following uses shall be prohibited in the RC Overlay District.

- (a) Antenna tower in excess of twenty feet (20 ft) in height;
- (b) Any use prohibited in the CR District by § 602.1, except a parking lot as permitted by § 1403.2;
- (c) Assembly hall, auditorium, or public hall,
- (d) Automobile laundry;
- (e) Automobile or truck sales;
- (f) Automobile rental agency that stores or services automobiles within the

RC Overlay District,

- (g) Bar or cocktail lounge,**
- (h) Billiard parlor or pool hall;**
- (i) Boat or other marine sales,**
- (j) Bowling alley;**
- (k) Bus passenger depot,**
- (l) Drive-through;**
- (m) Funeral mortuary or other similar establishment,**
- (n) Gasoline service station or repair garage,**
- (o) Hotel or inn,**
- (p) Motorcycle sales or repair;**
- (q) Movie theater;**
- (r) Off-premises alcoholic beverage sales;**
- (s) On-premises dry cleaning establishment;**
- (t) Parcel delivery service establishment other than one exclusively dedicated to serving a sound stage or a movie, video, or television production facility that existed on April 26, 1991;**
- (u) Restaurant or fast food establishment;**
- (v) Satellite reception dish greater than fifteen feet (15 ft.) in diameter;**
- (w) Transient accommodations that are not home occupations;**
- (x) Veterinary hospital; and**
- (y) Video game parlor**

1401 2

Except as provided in §1401 3, if any of the principal uses prohibited by § 1401 1 would be permitted as an accessory use in the underlying zone district, that accessory use is also prohibited in the RC Overlay District.

- 1401 3 Notwithstanding § 1401.2, the off-premises beer and wine sales accessory use in the grocery store located in Square 2572, Lot 36 may continue as a matter of right provided that it shall not occupy more than 2,078 square feet of the store's gross floor area.
- 1401 4 Notwithstanding § 1401.1, the Zoning Commission may approve a planned unit development that permits a hotel use integrating the First Church Christ Scientist building on a new lot created by combining Lots 872, 875, and 127 of Square 2560, and within such hotel, but only within the First Church Christ Scientist building, permit a restaurant and bar use; provided that the Zoning Commission may also permit food and alcohol to be served in the enclosed pool, the meeting rooms, the guestrooms, and the rooftop area located in the proposed addition to the First Church Christ Scientist building/or so long as such addition and the First Church Christ Scientist building are being operated together as a hotel.

SOURCE Final Rulemaking published at 38 DCR 2384, 2386 (April 26, 1991), as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8448 (October 20, 2000), as amended by Final Rulemaking published at 54 DCR 9393,9399 (September 28, 2007), as corrected by Errata Notice published at 58 DCR 4314, 4315 (May 20, 2011), as amended by Final Rulemaking and Order No 08-17 published at 57 DCR 2304 (March 19, 2010); as amended by Final Rulemaking published at 60 DCR 3635 (March 15, 2013)

1402 HEIGHT AND BULK PROVISIONS (RC)

- 1402 1 The maximum height permitted in the RC Overlay District shall not exceed forty feet (40 ft.) plus roof structure as defined in this title; provided, that in the RC/C-2-B Overlay District, a maximum height of fifty feet (50 ft.), plus roof structures, shall be permitted to provide for the on-site construction of low and moderate income household units, as those households are defined by the Inclusionary Zoning Regulations of Chapter 26 for a total gross floor area equal to fifty percent (50%) of the additional gross floor area made possible by the height bonus
- 1402 2 For the purpose of this chapter, no Planned Unit Development shall exceed the matter-of-right height, bulk, and area requirements of the underlying district
- 1402 3 Notwithstanding § 1402.2, the Zoning Commission, as part of a planned unit development permitting a hotel integrating the First Church Christ Scientist building on a new lot created by combining Lots 872, 875, and 127 of Square 2560, may permit a building height on former Lots 875 and 127 not to exceed 72 feet measured from Euclid Street, and an overall building density not to exceed 3 99 FAR

SOURCE Final Rulemaking published at 38 DCR 2384, 2387 (April 26, 1991), as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8448 (October 20, 2000), as amended by 54 DCR 6943, 6948 (July 20, 2007), as

corrected by Errata Notice published at 58 DCR 4314, 4315 (May 20, 2011), as amended by Final Rulemaking published at 60 DCR 3635 (March 15, 2013)

1403 SPECIAL EXCEPTIONS (RC)

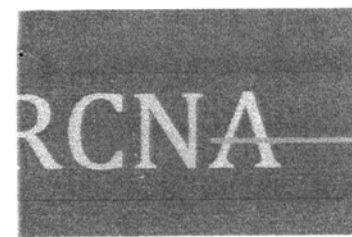
1403 1 An exception from the requirements of this chapter shall be permitted only if granted by the Board of Zoning Adjustment as a special exception pursuant to § 3104 after a public hearing, and subject to the following criteria

- (a) The use, building, or feature at the size, intensity, and location proposed will substantially advance the stated purposes of the RC Overlay District;
- (b) Vehicular access and egress shall be designed and located so as to minimize conflict with pedestrian ways, to function efficiently, and to create no dangerous or otherwise objectionable traffic condition,
- (c) Adequate off-street parking shall be provided for employees and for trucks and other service vehicles,
- (d) If located within a C-2-B District, the use shall not be within twenty-five feet (25 ft.) of a Residence District, unless separated there from by a street or alley;
- (e) Noise associated with the operation of a proposed use will not adversely affect adjacent or nearby residences,
- (f) No outdoor storage of materials, nor outdoor processing, fabricating, or repair shall be permitted, and
- (g) The use, building, or feature at the size, intensity, and location proposed will not adversely affect adjacent and nearby property or be detrimental to the health, safety, convenience, or general welfare of persons living, working, or visiting in the area

1403 2 A parking lot or garage shall be permitted if approved by the Board of Zoning Adjustment as a special exception pursuant to § 3104, subject to the following

- (a) The parking lot or garage shall meet the conditions specified in §§ 214 4 through 214 8,
- (b) The parking lot or garage shall meet the conditions in § 1403 1, and
- (c) The Board may require that all or a portion of the parking spaces be reserved for the following
 - (1) Residential parking,
 - (2) Unrestricted commercial parking;
 - (3) Accessory parking for uses within eight hundred feet (800 ft.); and
 - (4) Shared parking for different uses by time of day

SOURCE Final Rulemaking published at 38 DCR 2384, 2387 (April 26, 1991), as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8448-49 (October 20, 2000), as corrected by Errata Notice published at 58 DCR 4314, 4315 (May 20, 2011)



Improve your neighborhood.

Meet your neighbors.

Play a role in Adams Morgan's future.

Reed-Cooke Neighborhood Association

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THE ZONING REGULATIONS REVIEW (ZRR)

ZONING COMMISSION CASE No. 08-06A

Reed Cooke Neighborhood Comments on the ZRR

General Comments on Reference: Subtitle A; Subtitle C; Subtitle F; Subtitle G; Subtitle X; Subtitle Y; Subtitle W

The ZRR is not addressing our pressing needs.

Today the Reed Cooke neighborhood is faced with a developer house bidding war brought on by an overly lax R-5-B zoning enforcement. This has been a known inappropriate zoning for this area since its adoption, however we were able to live with it since we have never been the objects of strip mining for money as we see today. Developers only wanting to convert row houses into 3-4 units or more without regard for the residential character of the street or the neighborhood. Today any row house going on the market is snapped up by developers, not families. The character of our neighborhood is changing. Not my residential owners who wish to add a basement apartment. Pop ups are an outward manifestation of this, but we are now seeing houses assembled with the goal of tearing down the existing buildings and rebuilding to the maximum lot occupancy. This is currently underway in the 2200 block of Ontario road NW.

Today the Reed Cooke neighborhood is predominately zoned R-5-B, of moderate height and density. Commercial, a minor interior part of the area is governed by the Reed-Cooke Overlay District (RCOD) that includes some residential R-5-B lots. The focus of today's code is to preserve and encourage single-family housing. In contrast Zoning Regulations Review (ZRR) now designates our neighborhood from R-5-B to Apartment Zone A-2 with the former Reed Cooke Overlay District residential housing as group 4, A-8 Zone.

The ZRR General Provisions, Paragraph 100, for Apartment (A) Zones State the "Apartment (A) zones permit urban residential development and compatible intuitional and semi public buildings". But, Subtitle F, CHAPTER 2, Paragraph 200.2 says: "the A-2 zone (R-5-B) provides for area developed with predominately moderate and medium density row houses and apartments". RCNA

sees “Urban residential” to be condominiums or conversions to buildings with substantially higher density than characterize our neighborhood. This severe conflict between the General Provisions and Subtitle F requires correction to restore zoning code planning to maintain single-family residential uses.

Additionally, this very large policy change to re-designate what is now residential to an Apartment zone has great consequences, and has been done with little consultation or coordination with the residents, or homeowners of the Reed Cooke neighborhood. As a Neighborhood Association dedicated to protecting the residential character of our neighborhood, this policy change clearly works against everything we have worked for over the last 30 years. This clearly encourages development that will lead to more single-family house conversions, popups, and teardowns, all at the expense of single-family housing. This will dramatically alter the character of our neighborhood. To see the extent of this policy change, the following summation of the current elements of the overlay are provided:

The Reed-Cooke (RC) Overlay District was established to protect existing housing and provide for the development of new housing; maintain heights and densities at appropriate levels; encourage small-scale business development that will not adversely affect the residential community; ensure that new nonresidential uses serve the local community by providing retail goods, personal services, and other activities that contribute to the satisfaction of unmet social, service, and employment needs in the Reed-Cooke and Adams-Morgan community, and protect adjacent and nearby residences from damaging traffic, parking, environmental, social, and aesthetic impacts. The maximum height permitted in the RC Overlay District shall not exceed forty feet (40 ft.) plus roof structure as defined in this title; provided, that in the RC/C-2-B Overlay District, a maximum height of fifty feet (50 ft.), plus roof structures, shall be permitted to provide for the on-site construction of low and moderate income household units for a total gross floor area equal to fifty percent (50%) of the additional gross floor area made possible by the height bonus. No planned unit development shall exceed the matter-of-right height, bulk, and area requirements of the underlying district. Where there are conflicts between this chapter and the underlying zone district, the more restrictive regulations shall govern. For more information, including prohibited uses and allowable Inclusionary Zoning modifications, see Chapter 14 of the Zoning Regulations.

RCNA was assured that the overlay would be not be changed by the ZRR. However, we find that at Subtitle A-6 that paragraph 202.1 (b) defines “Residential Flat (RF), row dwelling zones for two to four units;” which is what predominates in Reed Cooke today. In the strongest terms we question the use of Apartment Zones zoning for our neighborhood, instead of the Residential Flat zoning. We also find this change to the Apartment Zone to be completely inconsistent with the Comprehensive Plan for the Reed Cooke Neighborhood as stated in the Mid cities goals of: **Policy MC-2.4.5:** Reed-Cooke Area Protect existing housing within the Reed Cooke neighborhood, maintaining heights and densities at appropriate levels and encouraging small-scale business development that does not adversely affect the residential community”.

We understand from the June 16, 2014 Office of Planning memo, that the Reed Cooke Overlay will be reassembled and moved to Subtitle K, but until we see the new text change we are limiting our comments to what is contained in the current case record. We will comment as appropriate on the forth-coming text changes when they are published, and are part of the case record.

ZRR Text Readability and Clarity

In our research, RCNA has struggled and has failed to find straightforward discussions of what is allowed and what is prohibited, what is required and what is not. The ZRR is not written in the language of a Municipal Regulation, as a regulatory document should be written, and as a legal enforceable document. While it is a worthy attempt to “update” our zoning code, it falls short in many areas. There are far too many areas left to interpretation, or a host of exceptions. It has created a voluminous balkanized code for the District of Columbia, which is without the uniformity of the current code. It will be a nightmare for citizens and developers to understand the zoning code when moving from one neighborhood to another, because of all of the numerous individual zones, with unique variances and exceptions. In short, each neighborhood has been given a unique zoning code that destroys the unifying city code we have today. This explosion of unique zones appears to be the direct cause of Text Bloat that is the ZRR.

The text style of the ZRR has eliminated the use of the term ‘prohibited’. The ZRR text only talks in terms of what is allowed. This stylistic change has tremendously impact the ZRR as a zoning regulation document. If enacted as the Zoning Code for the District of Columbia, the imprecise language will lead to misinterpretations, frequent legal challenges, and law suites.

For example, we use the text from the Reed-Cooke Overlay District. The ZRR excessive indenturing of the zoning code requirements makes application of the proposed zoning code all but impossible except for professionals who make it their job to study and understand all the intricacies built into the ZRR.

The Reed-Cooke Overlay, which currently consists of 5 coherent and consecutive pages of text, has been dismembered and parts of it are distributed over 38 pages of ZRR text in 7 subtitles (A-9, A-10, A6, A7; C-103, C-105, C 123 2503.1.b, C-124; F-11, F-12, F-15, F-16, F-29, F-30, F-32, F-33, F-34, F-35, F-36, F-37, F-38, F-46; G-40, G-41, G-42, G-43, G-55, G74, G-75, G-76, G-77, G-78, G-80, G-81; W-6; Y61, Y62; X-3, X-4, X-7, X-10, X-20). Today’s concise descriptions of uses for the land area within the Reed-Cooke Overlay District have been separated into ZRR Subtitles F and G. What was a side-by-side discussion of residential uses (R-5-B/RC) with Commercial uses (C-2-A/RC and C-2-B/RC) are redesigned into Zones A-8, and M-33 & M-34. Zones and M-33 & M-34 are further dissected within overall M zones, into further sub zones. This is shown within Subtitle G, Chapter 14, Use Permissions (page G-55), where M-33 & M-34 are designated as Zone Group E (1400.7 (e)). The sub-indenturing never ends

None of this splitting of topics, uses, and matter of right uses into separate text areas adds value to the usability or readability of the ZRR. The tables used in numerous areas of the ZRR are no better constructed. An example of confusing construction in layout and text construction is the “by Right Uses table” on page G-75 that enumerates By Right Uses for Zone Group E, covering M-33 & M-34 Zones. What has been up to now a straightforward table of prohibited Reed Cooke Overlay uses has been transformed in the ZRR into a text that which only speaks to what is “allowed”. Where what is specific today and what is prohibited, is no longer discussed. In the overall, this particular aggregation of use tables is an example of bad designed repeated throughout the ZRR. The following are text clarity problems:

- Coding of this table is counter-intuitive and confusing. Why use A, C, P to mean “accessory,” “conditional,” and “permitted” when, in other sections of the code, they’re used to designate “zone groups” (A-G) or zones (Apartment, Production/Distribution, Repair or to reference Commercial zones under the old code). Moreover, the tables typically do not include legends and, in the context of a discussion of acceptable uses, a reader seeing As and Ps in a chart is probably more likely to think “allowed” and “prohibited” than “accessory” and “permitted.” “Permitted” itself is ambiguous (allowed vs. requires a permit). And, of course, “A” (accessory) uses themselves can be either “C” (conditional) or “S” (by special exception), so the categories aren’t mutually exclusive.
- The format is inconsistent: The In Subtitle F, for instance, in one table, A-8 is folded into the same category as other A zones (1403.1) and, in two others, it is separated out (1401.1, 1402.10).
 - The entries for Lodging under the Reed-Cooke zones sometimes are marked with “-” (dash); other times “N/A.” We do not understand what is the dash intended to mean? We may guess, or make our own interpretation, but understanding table markings should never be left to the reader to make their own interpretation. At present, we take the dash to mean prohibited uses. But this table does not say so, because the dash is silent as to its meaning. The uses listed in the table are also so broad as to make them available to many interpretations. What is lodging? As what is Eating and Drinking? The original intent of the Reed-Cooke Overlay District was to ban off premises alcohol sales, bar or cocktail lounges, and restaurant or fast food restaurants. Does a sandwich bought and consumed at Harris Teeter Grocery store fall under eating?
 - In Subtitle F there are three use tables per zone; in Subtitle G there are only two.
 - The use tables and the text describing conditions aren’t always in alphabetical order. They aren’t always even in the same order (i.e. the order in the text doesn’t correspond to the order in preceding table; a table of uses for one zone follows a different order than is found in the analogous table for another zone). The use

groups aren't highlighted in the text (for ease of locating their conditions) and they aren't always labeled the same way in the text as in the corresponding table (e.g. Education (Public) becomes Public Education).

- The combination of Zone Groups and multiple use tables for each group causes additional problems. When a use is by right for most zones in the group, but requires a special exception in one zone, the standards for granting a special exception may get lost. For example, Transportation Infrastructure is listed as both C and S in G-75, Table 1414.2 ("By Right Uses – Zone Group E"), but omitted from Table 1415.1 ("Special Exception Uses – Zone Group E"). No special exception standards for this use in M-33 or M-34 are defined in the text following either table.
- The term "conditions" is used to describe both the circumstances under which a particular use is matter of right and the criteria for evaluating whether a use may be authorized as a special exception. To avoid confusion, substitute a different term (e.g. "standards") for special exceptions. Otherwise, a reading seeing conditions could easily assume that no BZA approval was required, since "conditional" ("C") uses are generally treated as a subset of by-right uses in this text.
- The tables are almost content-free – for example, they indicate that various uses are conditional, but not where the conditions can be found. Instead of filling every cell with just a "C," it would make sense to indicate the number of the regulation that specifies the relevant conditions.
- Prohibited uses aren't clearly identified – basically, to determine if a use is prohibited, you'd first have to read all the use group definitions and decide which group the use belongs in. Then you'd typically have to look through 3 different use tables for the specific zone – by right, accessory, special exception – and note the absence of the category you were looking for. It would make more sense to have one table that lists every use group and explicitly states which are prohibited (rather than to rely on a reader to deduce prohibition from the fact that a particular use group is never mentioned in the context of a specific zone). Having one comprehensive table of uses for each (type of) zone, would also avoid the possibility that, having found a reference to a use group in one table, a reader would fail to check whether it also occurs in others. Not using the term "Prohibited" will also be an open door for personal opinion-interpretations by the Zoning Administrator. The Zoning Administrator will be free to interpret any undefined item that he/she wants make regardless of the impact on property owners and neighborhoods. See later comments on the power of the Zoning Administrator

There are no overviews, cross-references, or obvious structure, that once learned will reoccur throughout the text. It is difficult for readers to know where to look or how to determine whether they

have found everything that is relevant to their inquiry. The current code has a Subject Index and a table of content that provide an easy way to use subject guide to the parts of the code that pertain to a particular topic. But, the ZRR does not contain one. This is a serious omission that requires action to correct.

The basic discussion of the commercial zoning is in Subtitle G-2. In which chapter 9 MIXED IS ZONES – REED COOKE (M-33 and M34) Pages G-40 through G-43, are discussed

.....

INCORPORATION OF OVERLAYS INTO ZONES

- Overlays are designed to modify the zone – and, often, not just to supplement it, but to work at cross-purposes with some aspect(s) of the zone.
- The current code anticipates conflicts between zone and overlay and therefore provides a rule for adjudicating those conflicts – most restrictive provision wins.
- The proposed code combines the purposes and intents of the zone and overlay – which are in tension with each other – into one equivocal text without any rule of decision for resolving those tensions.
- At the same time, it scatters the pieces of the overlay so far and wide that it would be easy to overlook the competing elements of the zone. This significantly increases the odds that different decision makers (developers, ZA, BZA, ZC) will make errors and/or adopt different/contradictory interpretations – across agency, from project to project, over time.
- The result will be less clarity and more uncertainty – which is the exact opposite of what this rewrite is supposed to achieve.

REED COOKE OVERLAY DISTRICT

RCNA has spent a great deal of time analyzing how the elements of the Reed Cooke Overlay District have been treated in the ZRR. The following comments and problems are the result of that analysis.

HEIGHT, BULK, AND AREA

Height:

While the Reed-Cooke overlay clearly limits heights to 40 feet, except in C-2-B (where 50 feet is permissible in a building that creates affordable housing for people with low/moderate incomes), there are a number of places in the draft code where these limits are ignored or are mistakes:

Subtitle C-103 anticipates heights of 50 feet in M-33/C-2-A and 70 feet in M-34/C-2-B. This should be 40 (M-33) and 50 (M-34) respectively.

Subtitle F-16 anticipates heights of up to 60 feet in an A-8 zone. Should be 40

Subtitle X-4 anticipates heights of up to 50 feet in an A-8 zone. Should be 40.

Subtitle X-20 anticipates heights of up to 90 feet in A-8. Should be 40

Density:

Subtitle F, section 500.1 “and medium” should be removed from the characterization of density. Under current definitions, this zone, where heights are limited to 40 feet, falls squarely within the definition of moderate residential development.

Subtitle G, sections 900.2 and 900.3, reference categories -- “moderate density mixed use” and “medium density compact mixed-use” -- that are undefined in the proposed code. Under the existing code, a similar characterization (“medium density commercial”) would anticipate development on a scale that is impermissible under the overlay. The references to density should be removed and the height limits specified – E.g. “The M-33 zone is intended to permit mixed-use development, with an emphasis on housing, in buildings limited to 40 feet in height.” Alternatively, the “moderate density” characterization could be applied to both zones.

FAR:

G-41 vs. G-42: The table at 901.1 shows a maximum non-residential FAR of 1.5 for both zones. Yet 903.2 allows a non-residential FAR of 2.0 for an existing building on a lot of 10,000 SF or less. Why? If the goal is to grandfather in buildings with 100% lot occupancy and two floors of commercial use, couldn't this be done in a way that wouldn't incentivize the conversion of residential space into commercial space? (e.g. focus on existing use rather than existing building, set a date related to the nature of the use/certificate of occupancy, rather than say “existing”).

Setbacks:

F-12: 502.1 rear setback rule – which is it: 15 feet or 4 inches per foot of building height? The latter rule (in a zone where height is limited to 40 feet) maxes out at 13.3 feet. Eliminate the formula, keep the 15 foot rule.

G-42: 905.5 allows waiver of rear setback requirement in M zones. Seems at odds with section 1402.2 of current overlay and its Subtitle G analogue (Section 901.2; page G-41).¹ Why allow the BZA to waive restrictions that a PUD can't provide relief from? And shouldn't any BZA waiver be subject to the overlay-specific special exception standards?²

INCLUSIONARY ZONING:

Both the current overlay (1402.1) and Subtitle G (in 902.2; p. G-41) call for a mix of low and moderate housing in the C-2-B/M-34 zone in exchange for the additional 10 feet in height (to 50 feet) granted. Yet the chart on page C-105 shows the M-34 zone slated for 100% moderate-income housing. Subtitle C should be changed to reflect the terms of the overlay.

SPECIAL EXCEPTIONS

The overlay includes its own set of Special Exception standards that need to be met in addition to the generic SE standards. While these standards are given their own section in the F subtitle (governing the A-8 zone), they are not incorporated in this form in subtitle G (governing the M-33 and M-34 zones). Subtitle G should include a section similar to section 1206 of subtitle F. (Presumably this new section would follow section 1303 (page G-53), which does a similar pullout of the SE standards for the National Observatory overlay).

Because the overlay's Special Exception standards reference the purposes of the Reed-Cooke overlay, it is crucial that all purposes of the overlay be included in both subtitles (F and G) and that the purpose statement uses the language of the existing overlay rather than the watered-down versions in the proposed text. This probably requires rephrasing the intro – e.g., The purpose of the Reed-Cooke Special Treatment Area (rather than “of the Reed-Cooke Mixed Use zones” or “of the Reed-Cooke Apartment zone”). The purpose of the zone can be (and already is) separately characterized in terms of relevant uses (F 500.1; G 900.2, 900 3)

The current overlay includes a public hearing requirement (1403.1);

¹ Which also has a typo – it refers to A-8 when, presumably, the reference should be to M-33 and M-34

² Another typo – the relevant standards for 905 5 are in Chapter 13 (not 12) of the subtitle

USES

Section 1401.1 of the Reed-Cooke Overlay includes a list of prohibited uses. Some of these prohibitions have been overlooked/deleted or changed in the proposed ZRR code.

Veterinary Hospital:

The conditions associated with Animal Care and Boarding uses in Table 1414.1 (p. G-75) have not been included. For M-33 and M-34, these conditions should indicate that a veterinary hospital is a prohibited use in these zones

Bus Passenger Depot:

Under the new code, any Transportation Infrastructure use operated by WMATA, DC government (or their sub-contractors) would be allowed as matter-of-right in the A-8 zone. (F-35, 1401.12)

G- 75: Table 1414.1 lists Transportation Infrastructure as a conditional or special exception use in M-33 and M-34 zones (unlike other zones in Group E), but doesn't include conditions.

Lodging:

The existing Reed-Cooke overlay prohibits "transient accommodations that are not home occupations."

F-35: 1401.11(e) would allow private clubs with sleeping accommodations

1402.5 Seems to prohibit B&Bs in the A-8 zone, even though these are home occupations.

Subtitle F-29 APARTMENT (A) ZONES, paragraph 1206, pertains to the A-8 apartment zone, with residential (R-5-B) use SPECIAL EXCEPTIONS. But, 1206.1 (b), (c), (d), and (e) refer to commercial uses, and are direct wording from the current Reed Cooke Overlay; i.e. "(e) no out door storage of materials, not outdoor processing, fabricating, or repair shall be permitted; and ". This is in no way applies to residential uses, for an Apartment Zone.

ZONING ADMINISTRATOR FLEXIBILITY

At Subtitle Y-55, paragraph 703 there is a discussion of flexibility granted to the zoning administrator under the terms of Subtitle Y for operations of the Board of Zoning Adjustments. We understand that physical dimension of a project do not always meet the exact measurements of the code, and require small deviations from the zoning code. But the full authority of the zoning administrator is not discussed anywhere in the ZRR. We find this a critical omission. Our neighborhood has seen abuses of this discretion by a Zoning Administrator, and in strongest terms possible object to a bureaucrat being given unlimited powers to make on the spot decisions solely on his personal interpretation that

affect our property and neighborhood. As recently as May the Zoning Administrator instructed a developer on how to apply a sliver of C-2-B zoning to an R-5-B lot to circumvent the residential height and density provisions of the Reed Cooke Overlay District. In this case the C-2-B is an artifact left from splitting a large lot into 2 lots. One clearly C-2-B lot, and the other an R-5-B lot with a very minor piece of C-2-B. The gambit that was instigated by the Zoning Administrator was unanimously rejected by ANC 1-C, when the developer made his initial presentation. This is an example of zoning decision shopping by the landowners' legal council to circumvent less profitable application of the zoning regulations.

Therefore, we are very concerned when we read at Subtitle D, Subtitle D-74 Paragraph 1611 **USES NOT IDENTIFIED IN R ZONES**, The Zoning Administrator is allowed the following: "Any use or Use Group not included in tables or otherwise permitted by conditions, special exception or as an accessory or home occupation of this chapter shall be deemed not permitted unless determined by the Zoning Administration to be compatible with like permitted uses and consistent with the general use impacts of permitted uses."

The zoning administrator should not be given full determination authority to approve uses without any review by the Board of Zoning Adjustment or Zoning Commission. This authority should be stricken from the ZRR.

We believe that the duties and limits of the Zoning Administrator should be explicitly spelled out in a text revision to the ZRR.

Vehicle Parking

We take exception to the reduction in off street parking requirements for new housing, because Adams Morgan is within 1/2 mile of metro stations. We have spoken with representatives of the Office of Planning about this, and the best reason we were given was that this is proposed to reduce the cost of construction and hence the cost of housing to the consumer. We still believe that there will always be a need for off street parking and as far as cost reduction; this issue is best to leave it up to the market to decide its use. The idea that lowering the requirement will reduce the cost of housing is unproven, and we believe that developers will charge what the market will bear regardless of the costs of putting in parking. We do not see the developer's profits on investment as a zoning issue. Parking to sell is still a good investment.

In our discussion with the OP representative the idea that a portion of the Adams Morgan population will require car ownership for commuting to the suburbs, business, or to meet family transportation needs, was not addressed in any substantive detail. Somehow being near metro or the

WAMTA bus system appears to be the universal solution to personal transportation needs. Further, the prices of property in Adams Morgan have risen to levels that only well -off people can afford. Rents are some of the highest in the city. The idea that reducing parking requirements will reduce the cost of buying/renting property here is without foundation.

RCNA recommends the Zoning Commission to refer and read the attached article from the Washington Post Friday April 4, 2014 on "Researchers see link between car access, poverty reduction". Poor families with autos fared better than those without study finds; by Emily Badger.

Quote: **"I do think that low-income neighborhoods need more and better transit, for sure. But I think we have to be able to talk about cars, too".** Rolf Peirsdall, of the Urban Institute

In conclusion, The Comprehensive Plan directs the Zoning Commission and Office of Planning to:
*Protect and conserve the District's stable, low-density neighborhoods and ensure that their zoning reflects their established low-density character. Carefully manage the development of vacant land and the alteration of existing structures adjacent to single family neighborhoods in order to protect low-density character, preserve open space, and maintain neighborhood scale. 309.10*³

³ 2007, The Comprehensive Plan for the National Capital District Elements Chapter 3, Land Use Element, Policy-LU-2 1 5
Conservation of Single Family Neighborhoods

Researchers see link between car access, poverty reduction

Poor families with autos fared better than those without, study finds

BY EMILY BADGER

In many circles — including advocates for cleaner air, safer streets, public transit — it's a major policy goal to get people out of cars.

Reduce car use, and you reduce pollution. Reduce car use, and we'll need fewer costly roads and parking garages. Reduce car use and shift more people onto bikes and trains, and maybe we'll all spend less of our lives idling in traffic.

That line of thinking, however, seldom considers a group of people for whom more car use might actually be a good thing: the poor.

A group of researchers at the Urban Institute, the University of Maryland and UCLA broach this topic in a large new study of low-income families in 10 cities that participated in two federal housing voucher programs, which were tracked over time by the government. Those programs, the Moving to Opportunity for Fair Housing program and the Welfare to Work Voucher program, attempted to give families access to greater opportunities through stable housing in high-quality neighborhoods.

But it turned out that much of the opportunity in places with better schools, lower poverty and less crime is hard to unlock without a car, the study found.

Several crucial differences emerged between families that had access to a car and those that did not. The families with cars moved to neighborhoods with less poverty and were more likely to stay there. They lived in neighborhoods with less unemployment, higher median rents, more access to green space and lower levels of cancer risk. By the end of the government's survey, these families also lived in neighborhoods with better-performing schools.

"The prescriptions that we've been hearing for the last few years ... the dominant ideas have been about improving and investing in transit," said the Urban Institute's Rolf Pendall, one of the lead investigators on the study, along with Casey Dawkins and Evelyn Blumenberg. "And I think that's imbalanced. I do think that low-income neighborhoods need more and better transit, for sure. But I think we have to be able to talk about cars, too."

"It's puzzling to me that we can't. That we haven't more."

Families with cars in the Moving to Opportunity program were twice as likely to find a job and four times as likely to stay employed, a finding that is consistent with another common reality

for those with low incomes: Unreliable transportation is one of the primary reasons that many lose their jobs. Both car and transit access had a positive effect on earnings, although the effect was much larger for car ownership.

"The question for policy, I think, is 'What are we going to do now?'" Pendall said. "Right now, we need to add car access to the list of things to do. But we also need to build cities differently."

How, though, would you increase car access among the poor in a way that doesn't simply saddle families with even more unsustainable expenses? Car ownership comes with costs: insurance, repairs, gas.

The burden of those costs, though, tends to weigh more heavily on low-income families. They are more likely to access financing through a predatory loan. They may have less access in the neighborhood to a reliable mechanic. A family living in a low-income neighborhood with high crime by definition faces higher insurance rates.

Pendall and his fellow researchers aren't simply suggesting that the answer is to give every family a vehicle. Federal programs designed to help the poor could facilitate car ownership instead of disincentivizing it, he said.

The government considers a family's assets, including cars, in calculating who qualifies for food stamps and cash assistance. A poor family may lose out on those benefits simply by owning a car.

A more effective poverty-reduction policy might consider

that families need both decent housing and a way to get from that home in the morning to school and work and back again, Pendall said.

"If you have transportation," he said, "you can keep your job, you can pick up your kids at school if they get sick, you can rely less on your neighbors, you can make more income, you can reduce your reliance on subsidies and move up the income scale, or at least become stable. You will also, however, have more greenhouse gases because you're earning more and because people who earn more consume more."

"That's actually a trade-off that I'm personally willing to make."

Most of the groups advocating for less car use, he added, want to turn three-car families into two-car families, or two-car families into one-car ones. The biggest reductions in auto use — and in associated emissions — aren't to be found among the poor.

"What we're really talking about here," Pendall said, "is making sure zero-car families have pathways to being one-car families that are not too burdensome on them."

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Excerpted from
washingtonpost.com/workblog.

"I do think that low-income neighborhoods need more and better transit, for sure. But I think we have to be able to talk about cars, too."

Rolf Pendall, of the Urban Institute