

Additional comments, ZC Case 08-06A

Submitted by Richard Layman, Ward 4 resident
216 Quackenbos St. NW
Washington, DC 20011
rlaymandc@yahoo.com
202-291-0403

Other affiliations
Citizens Planning Coalition
Rebuilding Place in the Urban Space blog, <http://urbanplacesandspaces.blogspot.com>

Subtitle D and E, residential zones

1. **Accessory dwellings.** The most recent submissions by the Office of Planning with regard to accessory dwellings are overly restrictive. The number of units allowed (one on lot and one within the house) should be determined by objective criteria concerning lot size, house size, proximity to Metrorail and proximity to other transit (streetcar/bus). Criteria offered by the Office of Planning is idiosyncratic. And the requirement of additional review processes (special exception/variances) beyond what was originally proffered will increase the complexity and cost of approval.

One of the reasons that OP keeps dialing back recommendations is because of opposition expressed in some quarters of the city, even though the complaints, generally are spurious. One alternative to consider would be a pilot program where various alternatives could be demonstrated. Seattle did this for a period of time in West Seattle.

article, Governing Magazine, <http://www.governing.com/topics/economic-dev/seattle-looks-cottages-affordable-housing-options.html>
Seattle manual for the pilot
program, <http://www.rosschapin.com/Plans/GuideforBuildingBackyardCottage.pdf>

2. **In some quarters of the city, opposition has been expressed to the dividing up of larger rowhouses to flats.** This should be allowed, depending on the size of the building, because increased property prices means that fewer households are able to purchase and use in its entirety such properties because of the cost and size. Flats allow more households to participate as owners in DC's residential housing market.

3. Recently, in response to direction from the Zoning Commission and the testimony of Councilmember Graham, **the Office of Planning submitted text amendments to address "pop ups."** Generally I am supportive of these recommendations and I have argued with OP about this for many years. It is only because Councilmember Graham testified before the Commission that OP changed their position.

The problem with popups is twofold. The current allowable zoning height and bulk for residential zoned property is greater than was typical when DC's pre-1940s neighborhoods were constructed. This is particularly problematic with rowhouses. However, there are many examples of attractive extant three and four story rowhouses, even in the city.

But there is not a design review process or streamlined process that works with property owners to develop compatible additions. Most popups are "ugly" and discordant with the prevailing architectural character of pre-1940 neighborhoods.

A special exception process with a design development process should be created to promote compatibility while simultaneously allowing for property expansions when the proposals are judicious.

Baltimore City document on design review
triggers, http://www.rewritebaltimore.org/pdf/HISTORIC_PRESERVATION_AND_ZONING.pdf

4. Separately the OP has discussed within the rewrite project legalizing poultry and other small animals in the context of promoting urban agriculture and sustainability. Although such provisions have not yet been submitted.

Many major cities, including NYC, Seattle, San Francisco, and Salt Lake City, have already legalized poultry and the maintenance of other small animals in residential zones. We request that the ZC consider the legalization of poultry and other small animals within the context of Subtitle D and E, rather than wait for a separate process.

Seattle City document on urban agriculture, <http://www.seattle.gov/DPD/Publications/CAM/cam244.pdf>

From the Seattle document:

- Animal Husbandry is a use where animals are reared or kept in order to sell the animals or their products, such as meat, fur or eggs, but does not include pet daycare centers or animal shelters and kennels.
- Residential Zones: Not permitted, except through specific regulations related to the keeping of small animals and domestic fowl.
- The keeping of small animals, farm animals, domestic fowl, and bees is permitted outright in all zones as an accessory use to any principal use permitted outright or to a permitted conditional use
- Up to three small animals are allowed (cats, dogs, rabbits, goats, etc.), accessory to each dwelling unit or business establishment. On lots of 20,000 sf. ft. or more, up to four small animals are allowed.
- Up to eight domestic fowl may be kept on any lot in addition to the small animals allowed.
- Roosters are not allowed
- Structures housing domestic fowl must be located at least 10 feet away from any residential structure on an adjacent lot. Other code restrictions regarding structures in yards may also apply
- Farm Animals: Cows, horses, sheep and other similar farm animals are permitted only on lots at least 20,000 sf. ft..

DC could consider differentiated requirements for rowhouse and single family detached zones, and based on lot size. Seattle has a flat number of animals approvable for lots under 10,000 s.f.

Recommendations in current OP documents for very large setbacks from lot lines, houses, and the rear lot line are overly restrictive, making keeping of poultry and small animals all but illegal except for a handful of lots. The Seattle requirement is a 10 foot setback from adjacent residential buildings/lots.

Subtitle F, Apartment Zones

1. DC apartment buildings, especially pre-1950 buildings constructed on the city's avenues and major streets (e.g., Wisconsin Avenue, Porter Street, 16th Street, Massachusetts Avenue, Connecticut Avenue) are attractive and distinctive contributions to the city's architectural heritage. One book that catalogs this contribution is *Best Addresses* by James Goode (Smithsonian Institution Press, second edition, 20).

The current approval process does not provide for design review in areas not zoned as historic districts, even though design approval and guidelines would be a logical extension of provisions within the Urban Design Element of the Comprehensive Plan.

Recently, this came up in terms of the Cafritz project at 5333 Connecticut Avenue NW. The building is going to be constructed with a glass curtain wall, which will be seriously discordant with the brick façade apartment buildings that line Connecticut Avenue from Kalorama almost the entire length to the city-county line in Chevy Chase. However, the building is not located in a historic district and there are no design review requirements associated with the property.

In response, Councilmember Cheh has proposed legislation applying the Large Tract Review process to such buildings. However, the LTR process provides no remedies or a process with regard to mediating design decisions. A design review process/materials requirements specifying brick and stone, should be added to this section of the regulations

2. Similarly, in 2007 I testified before the Zoning Commission and mentioned the unintended negative consequence of creating mixed use districts in terms of owner occupied multiunit housing and façade design. This is important in terms of design because while it is not uncommon for curtain-walled facades of commercial buildings to be reskinned when their design has been determined to be tired, the likelihood of future owners agreeing to a special assessment to “reskin” a building is unlikely, because it is not clear that all of the expense will be returned in higher property values—in addition to the difficulty of getting hundreds of property owners to agree to such a decision. Therefore, with multiunit residential housing, what you see at the outset is the architectural design result that a community receives for many generations.

Therefore there should be more rigorous design requirements for mixed use/residential multiunit buildings more generally in the city, because of the long term importance of design quality to urban design and quality of life in the city, and to maintenance of property values.

Such provisions should be applied to both rental and owner occupied housing because over time some rental housing is converted to residential household ownership.

Subtitle G, I, Mixed Use and Downtown zones

1. ***DC lacks adequate regulations concerning approval of large retail (so-called "big boxes").*** The recent “Walmart process” made very clear that the Large Tract Review process is inadequate, and currently the OP does not believe that “economic impact” on existing retail is one of the elements that should be mitigated as part of the coordination process--the LTR process is a coordination process that presupposes approval.

California's environmental assessment process has better and more detailed requirements for evaluating such proposals, and would be a better model for DC than exists currently. Even better is a proposed ordinance in San Diego, which was overturned as the result of a high profile opposition campaign by Walmart.

That San Diego law

(<http://www.sandiego.gov/planning/community/pdf/cpc/agendas/attachments/reportcpc.pdf>) had the following provisions:

- set for projects greater than 90,000 s.f.
- requirement of an impact analysis report with the following elements
 - assessment of the extent to which sales will be captured from the retail district in the area
 - assessment of the impact on existing and new retail space, including the potential for store closures and retail blight
 - assessment of economic impact including employment on existing retail
 - projection of public costs to serve the project and funding sources
 - projection of gross revenues from the proposed new project
 - analysis of the project in terms of the local Comp. Plan
 - analysis of the impact on VMT from new trips generated
 - lease or other development restrictions that limit reuse of the property going forward
 - impact on affordable housing/existing housing/housing demolition
 - impact on existing community and civic facilities, including loss of such facilities
 - any other impacts on neighborhood or small businesses
 - assessment of possible mitigation measures and recommendations for same

I recommend that similar provisions be added to the requisite sections of these chapters as needed. It could be handled in a variance/special exception process.

- resource, Municipal Research and Services Center, Washington State, [Regulation of Large Retail Establishments \(Big Box Retail\)](#)

2. ***Note that Laguna Beach, California has a "neighborhood-serving retail" use category and special exception process.*** This should be considered by the Zoning Commission as an addition to these titles.

3. ***Note that many cities have zoning regulations concerning design elements of "formula retail" designed to protect historic character of original buildings.*** (This was an issue in Georgetown with the Apple Store.) DC should adopt similar regulations, in order to discourage the demolition of properties for "architecture of nowhere and noplacement." I am not against "chain stores" in DC commercial districts, given that increasingly chain stores are the only option. But by restricting corporate design requirements the impact on a traditional commercial district can be better mitigated.

- resource, Institute for Local Self

Reliance, <http://www.sandiego.gov/planning/community/pdf/cpc/agendas/attachments/reportcpc.pdf>

- resource, the MRSC webpage listed above

Subtitle J-7, PDR

I recommend that Educational (Private, Public, College/University) and Institutional (religious and non-religious) uses not be considered matter of right in P zones.

DC has a limited amount of PDR zoned space.

Setting up competition for this space with actors (educational institutions and churches) that are tax exempt and can outbid PDR uses who are forced to bid using traditional economic/ROI criteria leads to PDR uses being forced out.

At best, a special exception process should be required. Educational uses that require PDR zoning (e.g., such as kilns for an art program) could be considered matter of right use, but normal classroom buildings should not, especially given that DC's pre-K to 12 student enrollment projections can be accommodated by the current school footprint.