

Comments of Friendship Neighborhood Association on
Zoning Commission Case No. 08-06A
Zoning Regulations Review: Subtitle C
October 28, 2013

Section 1901: Minimum Vehicle Parking Requirements

- **Section 1901.5: Schedule of parking requirements for all use categories**
 - The draft schedule includes substantial reductions in most of our already low minimum parking requirements
 - No empirical evidence has been provided to justify the proposed lower minimum parking requirements or demonstrate that the current requirements need to be reduced
 - There is a significant amount of evidence demonstrating that DC's current minimum parking requirements are well below vehicle ownership rates for residential uses, and in the rare instances where current rates might require more off-street parking than necessary, flexibility is available
 - **Like Councilmembers Evans and Cheh, we ask that the Zoning Commission remove the matter of parking minimums from the zoning rewrite proposals at this time.**
- **Section 1901.8: Location of required parking spaces**
 - The draft language on providing required parking off-site does not provide for adequate enforcement or monitoring of the location of the off-site parking.
 - Proposed edits are attached.
- **Section 1901.9: Shared Parking**
 - The draft language allowing shared parking to provide required parking for uses needing parking during different days and times does not provide for adequate enforcement or monitoring to assure continued compliance.
 - Proposed edits are attached.

Section 1902: Exemptions from Minimum Parking Requirements

- **Section 1902.1: Reduction of parking requirement by 50% in certain areas**
 - This provision is inconsistent with the Zoning Commission decision ZC 08-06-C issued April 25, 2011 requiring the Office of Planning to explain how its mapping of areas for reduced parking requirements is consistent with the applicable Comprehensive Plan policies identified in FNA's comments on the NPRM.
 - This provision, as noted in the Friendship Neighborhood Association March 11, 2011 comments on the NPRM, is inconsistent with the Comprehensive Plan
 - **We ask that this section be deleted.**
- **Section 1902.1(d): Mapping of some areas where reduction allowed as a matter of right based only on a WMATA designation.**
 - The mapping of areas where minimum parking requirements are reduced by 50% will be determined by WMATA through a process that will not provide for resident input, or any input on the implications of the WMATA action on DC's zoning regulations.

Section 1907: Mitigation for Parking Significantly in Excess of the Minimum Parking Requirement

- **Section 1907.3: Requirements for projects which provide more than 1.5 times the minimum parking requirement** (for residential uses more than one space for every two units far from transit and more than one space for every four units in the areas described in Section 1902)
 - The provision in this section can impose a substantial penalty on property owners proposing to provide sufficient parking to meet the needs of residents, employees, customers and guests.
 - **We ask that this section be deleted.**

DISCUSSION OF FNA RECOMMENDATIONS

Section 1901: Minimum Vehicle Parking Requirements

- **Section 1901.5: Schedule of parking requirements for all use categories**
 - **The draft schedule includes substantial reductions in most of our already low minimum parking requirements**
 - **Lack of empirical evidence to justify the proposed lower minimum parking requirements or demonstrate that the current requirements need to be reduced**
 - **There is a significant amount of evidence demonstrating that DC's current minimum parking requirements are well below vehicle ownership rates for residential uses, and in the rare instances where current rates might require more off-street parking than necessary, flexibility is available**
 - **Like Councilmembers Evans and Cheh, we ask that the Zoning Commission remove the matter of parking minimums from the zoning rewrite proposals at this time.** [See letters to the Zoning Commission from Councilmember Cheh and Councilmember Evans, September 9, 2013.]

Over the past five years, FNA has testified in many of the earlier hearings and provided substantial evidence supporting the retention of the current minimum parking requirements and demonstrating that OP's recommendations will have a negative impact on the District's businesses and residents. We request that our earlier testimony in ZC case 08-06 be carried over into this proceeding if that has not already been done.

Spillover parking is a major concern in many neighborhoods, especially when there is higher density development near lower density areas which were developed when a shortage of on-street parking was not anticipated. OP's recommendations, by lowering already low minimum parking requirements, will exacerbate current spillover problems, and bring new spillover issues to neighborhoods which had not previously had serious on-street parking problems.

In a recent DDOT filing to the Zoning Commission, it was revealed that vehicle registrations in the District have not been falling, but instead have been steadily increasing from 268,974 vehicles in 2009 to 284,905 vehicles in 2013.

Census data shows that vehicle ownership rates have remained constant at approximate 0.9 vehicles per household.

Yet, the September 2013 draft ZRR would change the minimum parking requirement to approximately 0.33 spaces per household far from transit and less than 0.167 vehicles per household near transit. Overall vehicle ownership rates exceed these amounts, and OP has not identified any areas with vehicle ownership rates low enough to justify these lower minimums, nor have they limited the change in the minimum parking requirements to those areas where vehicle ownership rates might be in this range. Moreover, for projects where it is anticipated that there would be very low parking needs, zoning flexibility is available under the current regulations.

On July 16, 2013, I asked Jennifer Steingasser to provide a copy of the traffic consultant report that, according to OP, was the basis for the recommendation of a minimum parking requirement of one space for every three units far from transit and one space for every six units near transit. In response, Jennifer Steingasser provided a link to a study which did not include any data on parking needs and did not provide any analysis relating to setting appropriate minimum parking requirements, but instead showed that DC's minimum parking requirements were generally substantially lower than those in the other jurisdictions chosen as models.

A massive reduction in minimum parking requirements has not been justified, and OP has not provided data to demonstrate that a reduction in parking requirements is justified in any particular areas.

In fact, all the data we have found indicates that vehicle ownership rates far exceed our current parking requirements. In our recent filing on the NPRM, we presented data comparing our current minimum parking requirements with vehicles per household in the Census tracts in Friendship Heights. Since the Census data does not separately provide estimates for vehicles per household in single family dwellings and multi-unit dwellings, we also provided data for the census tracts in Friendship Heights, Maryland, where nearly all the residents live in apartments or condominiums, and where all the residents have access to transit which is superior to that available in Friendship Heights, DC, and other areas where OP would have a minimum parking requirement of approximately 0.167 spaces per unit. We found that in census tracts in Friendship Heights, DC, there were approximately 1.4 vehicles per household, and in the census tract in Friendship Heights, Maryland, there was approximately 1.0 vehicles per household. Clearly, this data is not consistent with a recommendation of a minimum parking requirement of 0.167 or even 0.33 spaces per unit.

In the absence of any data from OP justifying this recommendation, and with substantial evidence showing that this recommendation would be reckless, we ask that the Zoning Commission remove from consideration the recommendations to change minimum parking requirements.

Section 1901: Minimum Vehicle Parking Requirements

- **Section 1901.8: Location of required parking spaces**
 - **The draft language on providing required parking off-site does not provide for adequate enforcement or monitoring of the location of the off-site parking.**
 - **Proposed edits are attached, but a requirement for approval by the BZA for a special exception, including the safeguards listed below, would be preferable.**

The draft regulations, if adopted, would change the way in which off-site provision of required parking would be handled. Currently, required parking can only be provided off-site if a special exception is approved by the Board of Zoning Adjustment. The approval would be based on a finding that it is economically impractical or unsafe to locate the parking spaces on the same lot as the building, and the off-site location is designed so that this use is "not likely to become objectionable to adjoining or nearby property because of noise, traffic or other objectionable conditions." As a practice, the BZA, in approving off-site parking, has required that "the Applicant shall record in the land records of the District of Columbia and file with the Zoning Administrator an instrument in the form of a covenant which shall, in whatever detail is legally necessary, ensure the continued usage of the authorized parking area for such required parking, and allow no other use."*

Under the proposed regulations, the required parking spaces can be located off-site at any location within 400 feet of the lot line. Generally, there would be no requirement to even report the off-site location. If the off-site location is in a Residential House or Flat zone, a special exception would be required to locate parking there. If the off-site spaces are also being used to meet the minimum parking requirement for another use that operates at different days and times ("shared parking"), a written agreement is required if the two properties are not under common ownership at the time of the application. If the properties are under common ownership at that time, there is no reporting requirement for off-site shared parking.

Changing off-site parking from a special exception to matter of right can impact residents near commercial zones. Currently, through the special exception process, if a developer is proposing off-site parking, residents who might be impacted by the more intensive use of a parking lot or facility near their homes can seek

measures that would mitigate that impact, for example, seeking improved landscaping or fences to reduce the impact of nighttime use. This would not be an option with the proposed new text.

In addition, there would be no requirement to record a covenant that would ensure the continued availability of those spaces for that use. In fact, there would be no record of where the off-site parking spaces would be, so that there would be no way to even determine whether they are even being provided.

We ask that this section be edited to make this provision enforceable and provide an opportunity to monitor compliance. We also ask that off-site parking require a special exception. Suggested edits on enforceability are provided below.

* See, for example, BZA 17926 LT Propco LLC, special exception to locate parking spaces on a lot that is separate from the building that they are intended to serve in accordance with subsection 2116.5. Square 1580, Lot 33 ("Home Plate Lot.") June 23, 2009.

Off-site provision of required parking spaces:

The proposed text for off-site parking does not provide any ability to enforce the requirement or even monitor the provision of off-site parking spaces. The text in the September 9 draft is provided below, along with edits, following the current procedure for off-site parking.

Subtitle C: Current Text, Page C-63 of September 9, 2013 draft.

1901.8 Required parking spaces shall be located either:

- (a) On the same lot as the use or structure they are meant to serve; or
- (b) On another lot, subject to the following provisions:
 - (1) The off-site location shall be a maximum of four hundred feet (400 ft.) from the use or structure that the parking spaces serve, as measured from the nearest lot line;
 - (2) The off-site location may be located within a different zone, except that the off-site parking location for a use within any zone other than a Residential House or Flat zone of Subtitles D or E may not be within a Residential House or Flat zone of Subtitles D or E, except in accordance with the provisions of D § 1603.16 and E § 1102.11; and
 - (3) Spaces provided off-site in accordance with C § 1901.8 (b) shall not serve as required parking for any other use, unless they are shared parking spaces in accordance with C § 1901.9.

Subtitle C: Proposed Edits to Conditions for Off-Site Provision of Required Parking Spaces:

1901.8 Required parking spaces shall be located either:

- (a) On the same lot as the use or structure they are meant to serve; or
- (b) On another lot, subject to the following provisions:
 - (1) The off-site location shall **have a maximum walking distance be a maximum** of four hundred feet (400 ft.) from the **pedestrian entrance of the use; use or structure that the parking spaces serve, as measured from the nearest lot line;**
 - (2) The off-site location may be located within a different zone, except that the off-site parking location for a use within any zone other than a Residential House or Flat zone of Subtitles D or E may not be within a Residential House or Flat zone of Subtitles D or E, except in accordance with the provisions of D § 1603.16 and E § 1102.11; **and**
 - (3) Spaces provided off-site in accordance with C § 1901.8 (b) shall not serve as required parking for any other use, unless they are shared parking spaces in accordance with C § 1901.9.

- (4) Prior to the issuance of the first certificate of occupancy, the written agreement between owner of the parking area and the owner of the site for which parking spaces are required shall be filed with the Zoning Administrator. Any amendment or successor agreement must be filed with the Zoning Administrator no more than ten (10) days following execution by the parties;
 - (5) Prior to the issuance of the first certificate of occupancy, an instrument in the form of a covenant which shall, in whatever detail is legally necessary, ensure the continued usage of the authorized parking area for such required parking, and allow no other use shall be recorded in the land records of the District of Columbia and filed with the Zoning Administrator; and
 - (6) The Zoning Administrator shall maintain a publicly-accessible file of all covenants, written agreements and amendments for the lot where the use is located and the lot providing the required parking spaces.
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Section 1901: Minimum Vehicle Parking Requirements

- **Section 1901.9: Shared Parking**

- **The draft language allowing shared parking** to provide required parking for uses needing parking during different days and times **does not provide for adequate enforcement or monitoring to assure continued compliance.**
- **Proposed edits are attached, but a requirement for approval by the BZA for a special exception , including the safeguards listed below, would be preferable.**

The proposed text for the shared use of off-street parking among more than one use does not provide the ability to enforce the requirement or does not provide the ability to monitor even monitor the provision of shared parking when at the time of application the sites of the uses were under common ownership. The text in the September 9 draft is provided below, along with edits, following the current procedure for off-site parking.

Subtitle C: Current Text, Pages C-63 to C-64 of September 9, 2013 draft.

1901.9 Parking spaces, whether required or not, may be shared among more than one use, whether the uses are on the same lot or on separate lots. Parking spaces that are shared among more than one use shall be subject to the following conditions:

- (a) The spaces shall not serve as required parking for any other use during the days and times each use they serve is in operation;
- (b) Parking may be shared:
 - (1) Between uses and a parking site within the same zone; or
 - (2) Between uses and a parking site within a Residential House zone of Subtitle D and a Residential Flat zone of Subtitle E, or
 - (3) Between a use in a Residential House zone of Subtitle D or a Residential Flat zone of Subtitle E and a parking site in any other zone; but
 - (4) May not be shared between a parking site within a Residential House zone of Subtitle D or a Residential Flat zone of Subtitle E and a use located in any other zone.

- (c) Unless under common ownership, a written agreement shall remain in effect between the owner of the parking area and the owner of the use for which the parking spaces are required (the “use”), and shall include the obligation set forth in C § 1901.9;
- (d) A draft of the written agreement shall be provided as part of any building permit application associated with either the site of the parking area or the site for which the parking spaces are required. The final, original written agreement shall be filed with the Zoning Administrator prior to the issuance of the first certificate of occupancy for the use and any amendment or successor agreement must be filed no later than ten (10) days following execution by the parties; and
- (e) The Zoning Administrator should maintain a file of all written agreements and amendments for the lot where the use is located and the lot providing the required parking spaces.

Proposed Edits to the Conditions on Shared Parking

1901.9 Parking spaces, whether required or not, may be shared among more than one use, whether the uses are on the same lot or on separate lots. Parking spaces that are shared among more than one use shall be subject to the following conditions:

- (a) The spaces shall not serve as required parking for any other use during the days and times each use they serve is in operation;
 - (b) The walking distance between the off-site spaces and a pedestrian entrance for the use shall be no more than 400 feet;
 - (c) Parking may be shared:
 - (1) Between uses and a parking site within the same zone; or
 - (2) Between uses and a parking site within a Residential House zone of Subtitle D and a Residential Flat zone of Subtitle E, or
 - (3) Between a use in a Residential House zone of Subtitle D or a Residential Flat zone of Subtitle E and a parking site in any other zone; but
 - (4) May not be shared between a parking site within a Residential House zone of Subtitle D or a Residential Flat zone of Subtitle E and a use located in any other zone.
 - (~~de~~) Unless under common ownership, a A legally binding written agreement shall remain in effect between the owner of the parking area and the owner of the use for which the parking spaces are required (the “use”), and shall include the obligation set forth in C § 1901.9;
 - (~~ed~~) A draft of the written agreement shall be provided as part of any building permit application associated with either the site of the parking area or the site for which the parking spaces are required. The final, original written agreement shall be filed with the Zoning Administrator prior to the issuance of the first certificate of occupancy for the use and any amendment or successor agreement must be filed no later than ten (10) days following execution by the parties;
 - (f) Prior to the issuance of the first certificate of occupancy, an instrument in the form of a covenant which shall, in whatever detail is legally necessary, ensure the continued usage of the authorized parking area for such required parking, and allow no other use during the days and times each use they serve is in operation, shall be recorded in the land records of the District of Columbia and filed with the Zoning Administrator; and
 - (ge) The Zoning Administrator should maintain a publicly-accessible file of all covenants, written agreements and amendments for the lot where the use is located and the lot providing the required parking spaces.
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Section 1902: Exemptions from Minimum Parking Requirements

- **Section 1902.1: Reduction of parking requirement by 50% in certain areas**
 - **This provision is inconsistent with the Zoning Commission decision ZC 08-06-C** issued April 25, 2011 requiring the Office of Planning to explain how its mapping of areas for reduced parking requirements is consistent with the applicable Comprehensive Plan policies identified in FNA's comments on the NPRM.
 - **This provision**, as noted in the Friendship Neighborhood Association March 11, 2011 comments on the NPRM, **is inconsistent with the Comprehensive Plan.**
 - There is no evidence presented that this language describes areas where there is a transit services are sufficiently robust to allow a large portion of residents to be car free, even though the minimum parking requirement in these areas would be less than 0.167 spaces per unit.
 - Available Census data indicates that the minimum parking requirement would be reduced by 50% in some areas where the vehicle ownership rates exceed two to three times the proposed minimum parking requirements that OP proposes to reduce by 50%.
 - **We ask that this section be deleted and that any reduction in minimum parking requirements from our current schedule be based on a careful study of vehicle ownership (for residential development) and parking needs (for commercial development) for the specific areas where the reduction is proposed.**
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Section 1902: Exemptions from Minimum Parking Requirements

- **Section 1902.1(d): Mapping of some areas where reduction allowed as a matter of right based only on a WMATA designation.**
 - **The mapping of areas where minimum parking requirements are reduced by 50% will be determined by WMATA through a process that will not provide for resident input, or any input on the implications of the WMATA action on DC's zoning regulations.**

This section defines the mapping of areas where the extremely low minimum parking requirements will be reduced by 50%.

Rather than mapping "transit zones," the draft currently before the Zoning Commission instead relies on text that defines the areas where the minimum parking requirement is reduced by 50%. This includes all areas that are not in residential house or flat zones that are within a half-mile of any Metro station, a quarter-mile of any streetcar line, or a quarter-mile of any WMATA Priority Corridor Network Metrobus Route. (Subtitle C, Section 1902.1). Typically, this would mean that in such areas the on-site parking requirement would be less than one space for every six households.

The text is drafted in such a way that the areas where the minimum parking requirements are reduced by 50% can change and those changes would be based on actions taken by WMATA, not by the Zoning Commission. For example, upper Connecticut Avenue is not currently defined by WMATA to be a Priority Corridor, so along Connecticut Avenue, the minimum parking requirement is reduced by 50% only in the areas within a half-mile of the Metrorail stations. If WMATA were to designate Connecticut Avenue as a Priority Corridor, the minimum parking requirement along upper Connecticut Avenue would be reduced by 50%. WMATA might hold hearings on the designation, but the decision would be based on factors relevant to bus service, and not on the impact of the change on DC's minimum parking requirements. Conversely, there is no guarantee that WMATA will continue to provide priority corridor level service even after parking requirements have been reduced based on the assumption that such service will be available to residents and businesses.

With the ZRR, minimum parking requirements are lower than our current minimum parking requirements. For example, for most apartment buildings, with the ZRR, the minimum parking requirement (before reductions) would be one space for every three units above four units, so 65 spaces would be required for a 200-unit building. (For publicly assisted housing for the elderly or handicapped, the requirement would be lower, one space for every six units.) If WMATA changes the designation of some bus routes, then, with the ZRR, the minimum parking requirement is reduced by 50%, and a 200-unit building within a quarter-mile of that corridor would only be required to have 33 spaces. (Not precisely half due to the rules of calculation in Subtitle C, Section 1909.)

With the language in the draft before the Zoning Commission, the minimum parking requirement for areas more than a half-mile from Metro or more than a quarter-mile of a streetcar line will depend on how WMATA classifies bus service within a quarter mile of those areas. If WMATA defines new Priority Corridor Network Metrobus Routes in those areas, the parking requirement will automatically be reduced by 50%, and there would be no opportunity to weigh in on whether this would be an appropriate regulatory change.

As part of Section 1902, we ask that this provision be eliminated and that any reduction in minimum parking requirements from our current schedule be based on a careful study of vehicle ownership (for residential development) and parking needs (for commercial development) for the specific areas where the reduction is proposed.

Section 1907: Mitigation for Parking Significantly in Excess of the Minimum Parking Requirement

- **Section 1907.3: Requirements for projects which provide more than 1.5 times the minimum parking requirement (for residential uses more than one space for every two units far from transit and more than one space for every four units in the areas described in Section 1902)**
 - **The provision in this section can impose a substantial penalty on property owners proposing to provide sufficient parking to meet the needs of residents, employees, customers and guests.**
 - **We ask that this section be deleted.**

The ZRR has been characterized as having no limit on the amount of parking a developer can provide. While there is an explicit maximum parking limit only for above grade parking areas, which cannot exceed more than 100,000 square feet in land area, in most cases, the proposed regulations would impose a substantial penalty on developers who choose to provide adequate off-street parking for residents, employees, customers and visitors. The following is a simple example to illustrate how this regulation would work. We ask that this section be deleted.

As noted below, the proposed minimum parking requirement for many uses is very low. For example, a condominium that is 2,500 feet from a Metro Station would be required to have less than 0.167 spaces per unit, even though, on average, DC households have 0.9 vehicles per household. Subtitle C, Section 1907 would place substantial additional requirements on the developer if he chooses to exceed this minimum requirement by more than 50%, i.e., if he chooses to provide more than one space for every four units (more than 0.25 spaces per unit).

Consider a specific example: a 350 unit condominium approximately 2,500 feet from a Metro station.

With the current zoning regulations, the developer would be required to provide 87 spaces, 117 spaces or 175 parking spaces, depending on the zone.

With the ZRR, 58 parking spaces would be required, including one space which would be provided free of charge to a car-sharing company (Subtitle C, Sections 1901.5, 1902.1, and 1908). In addition, the building would be required to have 117 long-term bicycle parking spaces and 18 short-term bicycle parking spaces. (Section 2002)

If the residents of the building own, on average, 0.9 vehicles per household, they would own 315 vehicles. (Owner-occupants, larger households and higher income households would tend to own more vehicles on average.) If the developer chose to provide adequate parking for the residents of the building (although not adequate to accommodate visitors), under the proposed regulations, they would be described as providing an excessive amount of parking. Adequate parking to meet anticipated needs would be 228 spaces more than 150% of the minimum parking requirement.

To "mitigate" the impact of providing adequate parking, the proposed zoning regulations would require the developer to include the following in his project:

- (1) 76 long-term bicycle parking spaces, in addition to the new standard requirement of 117 long term bicycle parking spaces, for a total of 183 long-term bicycle parking spaces;
- (2) 23 new trees planted in public space in that Ward (handled as a financial contribution to DDOT);
- (3) 11 on-site electric car charge stations (it is not clear whether these charge stations would be available to all residents or associated with assigned parking spaces);
- (4) 11 additional parking spaces provided free of charge to a car-sharing company;
- (5) An increase in the Green Area Ratio requirements; and
- (6) A financial contribution for the provision of two Capital Bikeshare stations with a minimum twelve bike stalls each, at locations determined by DDOT.