Zoning Commission of the District of Columbia
Case No. 08-06A
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on
Subtitles E and F
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1. We welcome OP's having dropped the proposal to permit the intrusion of a wide range of commercial, office and other non-residential uses into Subtitle F residential neighborhoods such as Adams Morgan.

These proposals had drawn a series of strong objections from Adams Morgan and Dupont Circle from as far back as 2009, by various means including a PowerPoint presentation to the Zoning Commission in 2010 -- not as a critique of the commendable sustainability objectives that motivated the "corner store" proposals, but to show that those objectives were already being met in our neighborhoods, obviating any reason to do injury to other important neighborhood interests. We were gratified that OP responded favorably and deleted this proposal from Subtitle F.

Since some have recently raised a question as to why this should have been done, it is appropriate to review the reasons why the proposed new commercial and other non-residential uses are not appropriate for AdamsMorgan, or, for many of the same reasons, other similarly situation areas within the proposed RA zones***.***

Why not apply the "corner store" proposals in the Apartment zones?

Note first that the practical effect of the proposal would have been to transform "Residential Apartment" districts in the new code into mixed-use zones where a long list of commercial and other non-residential uses, not now allowable in our residential areas, would be possible. These include not only the iconic mom and pop grocery, selling the oft-cited gallon of milk, but all uses falling under the general categories of "retail", "service", "food and alcohol service", "institutional", and "arts design and creation". Examples of specific allowable uses listed in Subtitle B include pawn shop, beer and wine carryout, appliance repair shop, grocery store, bank, yoga center, travel agency office, fast food establishment, delicatessen, dry cleaner, real estate agency office, shoe repair shop, recording studio, metal working shop and sales, café – among many others.

There are two reasons why this would be a bad idea:

(1) On the basis of OP's own criteria – with which we have no quarrel -- there is demonstrably no need for it in Adams Morgan, and

(2) it would have a variety of damaging consequences.

Specifically:

• *It would make no sense from the point of view of OP's own stated objectives: creating neighborhoods with walkable access to commercial amenities and fostering a green city with diminished reliance on cars.*

Adams Morgan is already such a walkable neighborhood. Our residentially zoned areas lie in close proximity to commercial areas along Columbia Road, 18th Street, Florida Avenue and U Street as well as Connecticut Avenue and portions of Calvert Street, Adams Mill Road and Kalorama Road. Any Adams Morgan resident who can walk at all can already walk to supermarkets, banks, liquor stores, dry cleaners, drug stores, restaurants, convenience stores, "mom and pop" stores and a variety of other commercial establishments in a very few minutes. The great majority of these are located in the commercial corridors, but some are already located in residential zone as holdover "non-conforming uses" or on the basis of longstanding rules – which are being carried forward in the proposed new regulations -- allowing convenience stores in apartment buildings.

Not surprisingly, a map of DC produced by OP in 2008, to identify neighborhoods with the best "access to healthy living" on the basis of criteria relating to food, fitness and health, showed Adams Morgan as one of the city's largest contiguous areas uniformly rated as "excellent".

• It *would degrade the character of Adams Morgan residential streets, while eroding its residential base on which schools, commercial enterprises and community activities depend.*

By definition, every square foot turned over to a check-cashing service, pawn shop, or beer and wine carryout would be a square foot taken out of the residential market for folks who want to live in our neighborhood, and every such enterprise introduced onto a residential block incrementally alters its residential character – few would say for the better. Adams Morgan residents value their nearby commercial strips and are fortunate to have them. But the value that Adams Morgan homeowners and other residents also place on the residential character of their blocks, and their assumption that commercial enterprises will not be allowed to infiltrate those blocks and displace residents, should be scrupulously respected. Adams Morgan, partly by reason of its close-in proximity to the Connecticut Avenue downtown, has faced threats to its residential neighborhoods from as early as the 1960's. It has a record of vigorously resisting, as exemplified by its opposition to freeways and urban renewal proposals, the Zoning Commission's 1980 ban on hotel expansion into residential neighborhoods (which emanated from Adams Morgan), the Reed-Cooke overlay that replaced industrial zoning for that neighborhood, the home occupation regulations, and the prosecution of various individual zoning cases.

• It would create gratuitous competition for existing businesses in Adams Morgan commercial strips and for owners seeking productive use of their commercial properties -- especially damaging at a time of sluggish economic growth.

Sacrificing dwelling space in order to house redundant commercial activity for which much nearby commercial space is available would be would be shooting ourselves in both feet.

• The need to accommodate buildings to ground-floor commercial or other non-residential enterprises would add one more incentive to demolish or deface Adams Morgan residential row houses and apartment buildings.

Thoughtless redevelopment of rowhouses for residential use alone has already produced some grotesque results on residential blocks. We clearly don't need to make the situation worse by inviting commercial operators to destroy handsome residential buildings or mutilate them by tacking on storefront facades. Areas not protected by historic designation would be especially vulnerable, but historic districts would not necessarily be immune from this threat.

• There is nothing in the District's Comprehensive Plan that would justify the proposed creeping commercialization of the Adams Morgan residential neighborhood; on the contrary, the Plan contains numerous provisions intended to preserve the integrity of residential row house neighborhoods.[1]

Note a needed drafting correction: In earlier drafts an anachronistic provision allowing large historic buildings to be converted to non-profit office use was carried forward from the existing code into what is now subtitle F. That use, which would constitute a threat to residential occupancy of large apartment buildings, was wisely dropped along with other newly proposed non-residential uses, but "office" still appears on the use table in F- §1403, and should be deleted.

[1] See, for example, Policies LU-2.1.7,LU-2.1.8, and LU-2.1.9, and Actions LU-2.1.A, LU-2.1.B and LU-2.1.C.

2. We welcome the proposal for the two new rowhouse zones – RF-4 and -5, which are intended principally to make it possible for areas like Adams Morgan to replace R-5-B and higher zoning with zoning more compatible with the physical character and general ambience of their neighborhoods.

The current zoning is itself a historical anomaly. The Lewis Plan, on which the now somewhat disdained 1958 code was based, envisaged a lower density – R-4 -- for Adams Morgan and much of Dupont Circle. The District Commissioners in their wisdom scrapped that, in favor of the higher density zoning, under the then-prevailing view that these neighborhoods as built, being blighted and drug-infested, were expendable and could usefully be demolished to the extent needed to make way for the Inner Loop Freeway and the Adams Morgan Urban Renwal Plan. Fortunately those monumentally misguided enterprises were defeated, but Adams Morgan and similar R-5-B areas have been burdened with this overly permissive zoning ever since. And with the total turnaround of the real estate market that began in the 70's, have increasingly been threatened by grotesque over-redevelopment of their historic rowhouses. That led finally to the provisions in the 2006 Comprehensive on which OP's proposal for the two new rowhouse zones is based. By revising the development standards, including height and lot occupancy, limiting the height of roof structures and number of stories and imposing a limit on the number of units that a building may contain, the new zones would go a long way toward eliminating the unsightly pop-ups, ruined facades and bulging rear additions that have resulted when developers cram six or eight or more units into a row house.

Another drafting correction: **E- 504.4, on conversion of a house to an apartment house in RF-4 and -5, is rendered without legal effect by another provision (E-600) and should be deleted.**

RF-4 and -5 have limits of 3 and 4 dwelling units respectively, and are intended mainly for downzoning from R-5-B or higher, which currently have no limit on the number of units and have seen many conversions of rowhouses to 7 or 8 or more tiny units often with disastrous results aesthetically. E- §600 provides for conversion of houses to apartment houses, which by definition contain 5 or more units, but properly limits such conversion to RF-1, -2 or -3 – excluding RF -4 and -5, the new rowhouse zones. (This provision carries forward present 11 DCMR §330.5(e), which applies only to R-4; there is no such conversion provision for R-5.) At present, however, E- §504.4 states a 750 SF of lot size per unit limitation on conversion to an apartment house in RF-4 or -5. E-§600, in limiting conversion to RF-1, -2 or-3, renders this provision without legal effect and it should therefore be deleted. More fundamentally, E-§504.4 should be struck because it would flatly negate the stated purpose of the new regulations to limit the number of units per house to three or four, and the intent of the Comp Plan provisions that they implement.

By the same token, E- §600 itself should be severely pared back or deleted altogether: it has been used repeatedly over the years to circumvent the stated intent of the current R-4 and will have the same effect on the new RF-1, 2- and -3 districts. Fortunately OP has apparently recognized this problem and sought to deal with it in its proposals for amendments to the current R-4, pending in case 14-11.

3. The commercial, office and other non-residential uses in residential neighborhoods that have been eliminated from RA-2 and higher (R-5-B and higher) in subtitle F, should also be dropped from the two new rowhouse zones, RF-4 and -5.

As already noted, the central purposes of these new zones, and the corresponding provision in the Comp Plan, is to allow over-zoned rowhouse areas – mainly R5B and higher -- to protect themselves by downzoning. OP has already concluded that these uses should be eliminated from the RA zones, having heard arguments, based on the special characteristics of these neighborhoods as outlined above, that the stated rationale for these uses doesn't apply in these areas and that moreover these uses would do positive harm to both residential and adjacent mixed use areas. That will be just as true under RF zoning as under RA zoning, and we urge that these non-residential uses be dropped from RF-4 and -5.

***4*. Purely as a matter of intelligible drafting, not policy, we suggest that the concept of "corner store" as it has evolved in the ZRR has become something of a muddle, and needs some further work.**

In Subtitle B, "corner store" is defined, but not listed as a use. Nevertheless it is listed as a use in the RF use tables, and under the RF use provisions as a whole is made to serve as a sort of basket authorizing "retail", "service", "arts design and creation" and "eating and drinking establishments". These are envisaged but not explicitly authorized in E-1106 and are apparently referred to in E - 1102(d) as "corner store uses" even though, with the exception of "arts design and creation", they were recently deleted from the RF use tables, perhaps in the thought that the proposal would be more palatable in skekptical residential neighborhoods if all these widely different uses were lumped together under the "corner store" rubric, even though most are neither "corner" nor "store". This incongruity is unnecessarily confusing and misleading – there is little similarity between a mom and pop grocery and a pawn shop or a real estate office or a metal-working shop. Perhaps all of these uses, including the grocery store uses, should again be straightforwardly listed separate uses as uses in Subtitle B and in the use tables.

5. Special problem for row-house neighborhoods: height and setback of roof structures

Roof structure height. **Maximum roof structure height for all districts under Subtitle F should be reduced from 18.5 feet to 10 feet, as is already provided for the Capitol Hill RA district and for Subtitle E districts.** For a large eight or ten story building, 18.5 feet constitutes a small proportion of the overall height and may well be hardly noticeable. But in a neighborhood of rowhouses 40 feet or less in height such as Adams Morgan, an 18.5 foot high box looming over the building is proportionately a very big and visually intrusive increase in the building's height (and mass) -- even for a three- or four-story rowhouse and certainly for a two-story one. Presumably recognizing this, OP reduced the roof structure maximum height to 10 feet in the special Capitol Hill R-5-B district. There is no reason that should not be done for other R-5-B (prospectively RA-2) districts such as Adams Morgan and other "Residential Apartment" districts, or indeed for rowhouses generally.

Roof structure setback. **The general rule on roof structure setback from side walls, found in C - §505(e), should replace the corresponding rule found in subtitles D, E, F and M, to effectively mitigate their visual impact on rowhouses and to implement the relevant provision of the Comprehensive Plan.** In these zones, roof structures must be set back from the front wall by a distance equal to their height and from a side wall by a distance equal to half their height. The problem is that no setback is required form a side wall adjoining another building, apparently on the theory that in this situation the roof structure would be substantially shielded from view by the adjacent building. But as can be seen in Adams Morgan and elsewhere, this theory does not hold where the adjacent building is significantly lower than that on which the roof structure is located. In this situation a roof structure flush with the side of such a building can be quite intrusive visually. The Comprehensive Plan contains the following provision specifically intended to deal with this problem, but it appears to have been overlooked in the drafting of the provisions just mentioned:

Action LU-2.1.B: Amendment of Exterior Wall Definition

Amend the city's procedures for roof structure review so that the division on-line wall or part wall of a row house or semi-detached house is seated as an exterior wall for the purposes of applying zoning regulations and height requirements.

The problem would be effectively solved by applying the different formula found in the "general rules" in subtitle (C - §505(e)) that requires a setback from a lot line wall that is "higher than the greater of the adjacent property's existing or by-right height." That provision is more nearly faithful to the Comprehensive Plan and should be made applicable in all Subtitle D, E and F districts.