

MEMORANDUM

TO: Sara Bardin, Director, Office of Zoning

FROM: *JL for* Jennifer Steingasser, Deputy Director, Historic Preservation and Development Review
Elisa Vitale, Development Review Specialist

DATE: December 20, 2021

SUBJECT: Request for Consent Calendar consideration of a technical correction to DCMR 11 Zoning Regulations as adopted in Case No. 19-14

I. RECOMMENDATION

The Office of Planning (OP) recommends the following proposed technical correction to the Zoning Regulations and respectfully requests that the matter be placed on the January 13, 2022 consent calendar pursuant to Z § 703 of the Commission's rules.

The proposed technical correction would modify the special exception provision in Subtitles E and F to reflect the permitted dwelling unit density in these zones.

The Office of Planning will work with Office of Zoning Legal Division to refine the language prior to notice if necessary.

II. BACKGROUND

OP brought forward ZC Case No. 19-14, to modify the § 5201 special exception provisions of subtitles D, E, and F, and the ZC approved the text amendment May 11, 2020¹. The text amendments clarified the zoning treatment of enlargements and additions to nonconforming structures and provided for special exception relief from certain development standards for a new or enlarged accessory structure to a residential building.

In Subtitles D, E, and F, Section 5201 provides for special exception relief from certain required development standards. The text in § 5201.1 relates to an expansion or addition to a *principal building* on a non-alley lot. The text in § 5201.2 relates to a new or enlarged accessory structure to a residential building on a non-alley lot.

Section 5201.2 in Subtitles E (RF zones) and F (RA zones) mirrors exactly the language of Subtitle D which restricts relief to properties with *only one (1) principal dwelling unit* on a non-alley lot. The language in § E-5201.2 and § F-5201.2 has the effect of eliminating the special exception path for a property owner of a flat² within the RF or RA zones, and for a property owner of a flat or apartment building³ in the RA zones who wishes to construct a new accessory structure or enlarge an existing accessory structure. This is not the intent of the provisions.

¹ ZC Order No. 19-14, final and effective July 3, 2020.

² A flat is defined as two (2) principal dwelling units in the principal building

³ An apartment is defined as three (3) or more principal dwelling units in the principal building

III. PROPOSED TECHNICAL CORRECTION

The proposed technical correction to the text of the Zoning Regulations are as follows (text to be deleted is marked in ~~bold and strikethrough~~; new text is shown in **bold and underline**):

Subtitle E (Residential Flat (RF) Zones)

Section 5201, SPECIAL EXCEPTION RELIEF FROM CERTAIN REQUIRED DEVELOPMENT STANDARDS, of Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS FOR RF ZONES, of Subtitle E, RESIDENTIAL FLAT (RF) ZONES, is amended by revising § 5201.2 to read as follows:

5201.2 For a new or enlarged accessory structure to a residential building ~~with one (1) principal dwelling unit~~ on a non-alley lot, the Board of Zoning Adjustment may grant relief from the following development standards as a special exception, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9:

- (a) Lot occupancy under Subtitle E § 5003 up to a maximum of seventy percent (70%) for all new and existing structures on the lot;
- (b) Yards, including alley centerline setback;
- (c) Courts; and
- (d) Pervious surface.

Subtitle F (Residential Apartment (RA) Zones)

Section 5201, SPECIAL EXCEPTION RELIEF FROM CERTAIN REQUIRED DEVELOPMENT STANDARDS, of Chapter 52, SPECIAL EXCEPTION RELIEF FROM CERTAIN REQUIRED DEVELOPMENT STANDARDS, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is amended by revising § 5201.2 to read as follows:

5201.2 For a new or enlarged accessory structure to a residential building ~~with one (1) principal dwelling unit~~ on a non-alley lot, the Board of Zoning Adjustment may grant relief from the following development standards as a special exception, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9:

- (a) Lot occupancy up to a maximum of seventy percent (70%) for all new and existing structures on the lot;
- (b) Yards, including alley centerline setback;
- (c) Courts; and
- (d) Green Area Ratio.