

MEMORANDUM

TO: District of Columbia Zoning Commission

FROM: Brandice Elliott, AICP, Project Manager
JLS
Jennifer Steingasser, AICP, Deputy Director, Development Review & Historic Preservation

DATE: February 3, 2020

SUBJECT: ZC Case 19-21 – Public Hearing Report for a Proposed Text Amendment to the Zoning Regulations: Subtitles D, E and U – Roof Top or Upper Floor Elements

REQUEST TO ACCEPT LATE REPORT

This report concerning Zoning Commission Case 19-21 is being submitted less than ten (10) days prior to the Zoning Commission’s public hearing . The Office of Planning respectfully requests that the Commission waive its rule and accept this report into the record.

I. RECOMMENDATION

The Office of Planning recommends that the Zoning Commission **approve** the text amendments, as proposed in the Exhibits of this case file.

II. BACKGROUND

At its October 11, 2019 public meeting, the Zoning Commission set down for a public hearing text amendment case 19-21. These proposed amendments, as presented in the OP setdown report (Exhibits 1 and 2), are intended to revise the following development standards:

1. Expand the protections to include semi-detached and row residential buildings in the R zones;
2. Expand the regulations so that solar energy protections apply to additions and new construction in the R and RF zones; and
3. Revision of the definition of “significantly interfere” to simplify zoning inspections of solar installations by DCRA.

The revisions would also reorganize certain sections for clarity and remove redundancies within the regulations.

The amendments are intended to do the following:

ROOF TOP OR UPPER FLOOR ELEMENTS:

1. In the R Zones:
 - (a) Apply solar energy system protection standard to semi-detached and row buildings (Subtitle D, § 208); includes both additions and new construction;

- (b) Introduce a new special exception standard for relief (Subtitle D, Chapter 52)
2. In the RF zones:
 - (a) Expand the solar energy system protection standard to new construction, the protections already apply to additions;
 - (b) Exclude those properties subject to review by the Historic Preservation Review Board or their designee or the U.S. Commission of Fine Arts (Subtitle E § 206.1);
 - (c) Define and exclude ordinary repairs (Subtitle E § 206.2)l; and
 - (d) Introduce a new special exception provision for relief from roof top or upper floor elements (Subtitle E, Chapter 57).
3. In R and RF zones:
 - (a) Unify language across subtitles and chapters as applicable;
 - (b) Modify how interference with solar energy systems is measured (Subtitle D § 208.1 (c), and Subtitle E § 206.3 (c)); and
 - (c) Clarify submittal requirements and define terms.

BUILDING HEIGHT

1. In the RF zones:
 - (a) Remove duplicative standards for building height and reorganize for clarity (Subtitle E, Chapter 52)

SUBTITLE U – USES (RF Zones)

There are two themes to the amendments in Subtitle U Conversions –

- To provide standards for converting a building to an apartment house; and
- To provide criteria for the treatment of an apartment house that is already converted.

The amendments are intended to do the following:

1. Keep language requiring 900 sq. ft. per unit for the conversions of residential and non-residential buildings to apartment houses (Subtitle U §§ 301.2 and 301.5);
2. Add clarification that a pre-existing conversion to an apartment house is considered a conforming use and structure but may not expand (Subtitle U §§ 301.3 and 301.4);
3. Establish standards for special exception relief for conversion of residential buildings to apartment house and add review criteria (Subtitle U § 320.2); and
4. Establish standards for special exception relief for conversion of non-residential buildings to apartment house and add review criteria (Subtitle U § 320.3).

OP has worked in close coordination with the Department of Consumer and Regulatory Affairs (DCRA) and Office of the Attorney General (OAG) in drafting the text and referred it to the District Department of Energy and Environment (DOEE).

Modifications Requested by ANC During ZC Case No. 19-14 Public Hearing

During the public hearing for Zoning Commission Case No. 19-14, a text amendment clarifying the regulations related to enlargements or additions to nonconforming structures, the public identified various issues with the existing text that needed to be addressed in order to provide clarifications and reduce redundancies. It was pointed out that many of the issues were covered in this case, 19-21.

The Zoning Commission requested that OP review the issues and propose changes to the proposed text in this case if necessary. Generally:

- Subtitle E § 206 focuses on the requirements for the preservation of architectural features and the protection of solar energy systems.
- Subtitle E § 5203 provides special exception criteria to allow a principal residential building to have a height of up to 40-feet.
- Subtitle E § 5207 is a proposed new section that would establish special exception criteria for the removal or alteration of architectural features and to impact a solar energy system above the standards provided in § 206.
- Proposed changes to Subtitle U § 320 (Uses) would remove the redundancies found in Subtitles D and E, and where the requirements would apply to all structures permitted by those Subtitles and not only to conversions into apartment houses, which is regulated by § 320.

DCRA Modifications to Text

OP has continued to work with DCRA, especially the offices of the Zoning Administrator and the Solar Coordinator, since the publication of the public hearing notice. DCRA has suggested amendments to the definition of “significantly interfere” and the new requirement for a comparative solar shading study, as included in the public hearing notice. The following revisions are recommended to the advertised text to ensure that the inspection process is predictable and responsive:

1. The definition of “significantly interfere” would establish a baseline of 5% above the amount of shading for the year preceding the time of application. This measurement could become problematic due to year-to-year anomalies based on local weather patterns. In addition, a “weighted average calculation” is ambiguous and problematic. Therefore, DCRA has recommended revisions that would more broadly define “significantly interfere” and give the Zoning Administrator greater authority in determining the type of calculation and study that is acceptable for DCRA review.
2. The public hearing notice text details the components of a comparative solar shading study, including number of shadow depictions, times of day and times of year. DCRA has indicated that the inflexibility of including it in the regulations could be problematic, as it cannot be adjusted, improved, or fully developed as necessary. As a result, DCRA prefers that the specific requirements be removed from the regulations and that the standard be established by the Zoning Administrator.

OP proposes modifications to the proposed text in the public hearing notice, specifically to address DCRA concerns described above to Subtitle D §§ 208.1(c) and 208.1(d)(2), and Subtitle E §§ 206.2(c) and 206.2(d)(2).

Modifications Proposed by OP

Since the public hearing notice was published, OP has continued to review the proposed text and work with DCRA and OAG and the proposed text now reflects that coordination. Much of the difference between the final recommended text and the text of the public hearing notice is due to references to Subtitle E §§ 201.4 (now 201.7), 205.4 and 206 and to the coordination of the special exception relief and standards. Therefore, the language is more detailed and consistent as recommended in the proposed draft.

The proposed text is attached as exhibits to the case record. There are two attached exhibits, a “redline” draft with ~~strike-throughs~~ and **bolded and underlined** additions and a “clean” draft that shows the proposed language in final form.

III. ANC AND COMMUNITY COMMENTS

As of the date of this writing, there have been no comments added to the record.

Attachments:

Clean Proposed Text Amendment Without Strikethrough

Redline Proposed Text Amendment With Strikethrough

JS/be