

17-18 Testimony Draft - ANC1C - Ted Guthrie

My name is Ted Guthrie and I am a member of ANC1C and former chair. ANC1C is located in Adams Morgan and includes a mix of RA-2 and RF-1 residential zones.

We appreciate the Office of Planning for taking up these much-needed revisions and embrace some of their ideas. But, bottom line, more is needed. I'd like to outline what we see as the problem and conclude by highlighting our recommendations to further revise the Office of Planning draft.

I'd like to start by stepping back and reflecting on the clear intent of the zoning regulations:

- That the words have real meaning.
- Words like: Basement. Cellar. Adjacent. Grade. Habitable.
- That these words help ensure a quality of life for our neighborhoods and our city, to ensure that what is built can be serviced by the public infrastructure like waste and sewer management and more.

It's pretty clear what people thought when these regulations were established in 1958. First, nobody thought a cellar was a suitable place to live. That's where you keep the cat litter box or do the laundry. Second, that's why cellars are not counted in density formulas. Unfortunately, in recent years, the connection between these two fundamentals has been lost. The result? Lower level living units in many row house conversions are being mislabeled as cellars in order to exclude them from Gross Floor Area calculations.

- **As this slide shows**, the 1.8 FAR limit is being routinely exceeded by 25% with an extra 900 or so square feet of uncounted lower level space.

- And 4-story row houses are being allowed in 3-story limit RF-1 neighborhoods.

As this slide shows, the cellar mislabeling has circumvented the intent of the zoning rules by a measurement trick that has been accomplished by raising the grade outside about 1” and/or lowering the ceiling inside 1” in order to get a magical 3’11” cellar measurement, just 1” less than the 4’ measurement that defines the space as a basement. The public cost is overbuilding row house neighborhoods and overtaxing our infrastructure. For the Zoning Commission, this is putting at risk your good work in recent years on dealing with pop-ups.

The Office of Planning’s proposal is thankfully addressing some of this, but, as I will explain in a moment, more is needed.

How extensive is this problem? I don’t have a precise answer, but the map on this slide shows what we have seen going in Adams Morgan and some nearby neighborhoods. It is by no means comprehensive but it is representative of the lowering of ceilings and raising of grades that I just showed you. It’s also happening when developers don’t build what DCRA approved, which places a huge oversight burden on DCRA to keep an eye on this one inch difference between a basement and a cellar that is, again, not what the regulations intend.

I want to highlight just one example. This slide shows a row house conversion on Ontario Road in Adams Morgan.

- The developer said the lower level was a cellar and got a permit to exclude that space from FAR. But then the developer raised the floor, which made the lower level a basement by creating more than 3’11”

distance from grade. The project was now over the 1.8 FAR limit. That's the photo on the left.

- We pointed this out to DCRA. They placed a stop work order and made the developer build a retaining wall and raise the grade outside to turn that lower level back into a cellar. That's the photo on the right. By the way, that newly added retaining wall. Guess what? It is higher than the regulations allow.
- This sort of gamesmanship goes on a lot and it breaks the chain of reason in the regulations.

RECOMMENDATIONS

As promised, I'd like to summarize our ANC1C recommendations as reflected in our January 2018 resolution. I know you have it but I'd like to highlight just a few points.

- One, we strongly oppose excluding areaways as being the adjacent finished grade. Frankly, this proposed codification of grade manipulations just doesn't make sense.

On this slide, look at the definition of finished grade, which reads:

- In the left column, the ground directly abutting the perimeter of a building.
- But then look at the right column. The proposed new definition says just the opposite—that this very ground is NOT the finished grade.
- Then, look at the definition of “areaways” at the bottom of the slide. It reads in part “Areaway: A subsurface space adjacent to a building....”

Beyond dissecting the words on the paper, let's look at the logic.

- An areaway makes the lower level more habitable.
- An areaway also creates a lower level basement measurement.

Also of concern is the Office of Planning language that was revised after its first 17-18 submission to no longer limit the size of areaways. The new language would allow areaways to stretch across the entire façade of the building, creating a dramatically new grade.

In grappling with this definition of finished grade, I'd like to point out on **this slide** that the Zoning Commission previously clarified what is meant by "finished grade" in the ZR-16 that was approved on January 14, 2016. It's on this graph, for the very rule we are talking about tonight. It shows the finished grade at the base of the building façade, not outside of an areaway. For some reason, this graph and all graphs were removed from the published ZR-16.

I also want to highlight ANC1C's opposition to allowing attics and cellars to be defined as habitable rooms. As I said at the beginning, it has long been understood that cellars are not suitable for human habitation. By saying that attics and cellars are now habitable, what's the point of even drawing a definition distinction between a basement versus a cellar? However, if that change is something you want to make, then ANC1C recommends that any cellar or attic space that is used for habitable space be included in the calculation of the permissible gross floor area of the building. This language was included in an earlier December 2, 2016 draft by the Office of Planning to clarify the basement/cellar rule, which added to the definition of what counts as "gross floor area" this wording: "and habitable rooms in cellars in the RA-1

and RA-2 zones.” That draft also recommended wording that habitable cellars would be counted as stories.

My final slide is a summary of our recommendations. With that, let’s move forward by returning to the basics and fundamentals of the zoning regulations when they were first issued to guide this city’s growth.

Summary of ANC1C Resolution

SUPPORT: Changes that Provide Consistency in Measurement Points

The measurement distances should be corrected as they currently differ across the definitions and FAR calculation formulas.

The distance of 5' from adjacent finished grade to floor above is a more appropriate distance than the 6' distance currently listed as the floor sandwich is typically around 12" and the modification from 4' to 5' thus aligns more with this distance increase.

RECOMMEND: Additional Grade Measurement Clarifications

Define "adjacent" as DCRA's Zoning Administrator has previously identified "adjacent" as being a point within the building area (on top of a planter)

Explicitly prohibit berming to alter basement/cellar grades.

OPPOSE: Exclusion of Adjacent Finished Grade as Areaways

RECOMMEND: Identify Adjacent Finished Grade as Base of Building Facade

ZRR-16 identified GFA/FAR grade measurement point as "midpoint of building façade" (see next page).

ICC measures the grade at the base of the building façade.

Areaways create more light, air and access and, in effect, turn cellars into basements.

Exclusion of areaways as the adjacent finished grade creates an enormous loophole in the basement/cellar measurement rule.

The zoning regulations provide no supporting language for this exclusion.

The areaway distance from the façade is only 4' from the façade, according to the DC building code, not 5'.

Neighboring jurisdictions do not support this exclusion.

OPPOSE: Identifying Attics and Cellars as Habitable Rooms

RECOMMEND: Add Language: GFA/FAR & Story Formulas Count Habitable Spaces

Exclusion of habitable cellars from FAR has not been long-standing DCRA practice.

The zoning regulations should align with the building codes and other regulations.

An areaway makes a lower level more exposed to the grade/more livable.

Habitability matters in density formulas.

Basement and Cellar Definitions are 2-part: measurement and use (habitable).

Density formulas should count all habitable/livable spaces.