

July 23, 2018

TO: Zoning Commission
FR: Alan Gambrell, 1648 Argonne Place NW, DC 20009
RE: Recommendations on 17-18 and a Future 17-18A

Thanks to the Office of Planning (OP) and Zoning Commission (ZC) for undertaking revisions to the “basement/cellar rule.” Below are recommendations for minor adjustments to 17-18 that will readily work within the framework of the Zoning Commission's likely approval of the draft. However, I am not optimistic that the new 17-18 rules—alone—will put a stop to manipulation of this measurement rule. Thus, I am tying my feedback to an added recommendation for future 17-18A text amendment deliberations to address basement/cellar gamesmanship of the density rules, undo some of the damage done to the integrity of the zoning regulations, and build upon OP and ZC work in recent years to address row house zoning challenges.

My pessimism about 17-18 as the final word is well founded. As you know, current and routine abuses include DCRA-approved lowered ceilings and raised grades. Perhaps the worst manipulation in the city is a 2015-16 case on my block where the Zoning Administrator (ZA) approved a series of finished grade designations, reversed approval after neighbor and ANC feedback pointed out zoning noncompliance issues, but eventually settled on a jaw-dropping absurdity: recognition of an adjacent finished grade on top of a new planter, embedded within the building itself. (See BZA 18980.) Case 17-18 provides some solutions but invites potential new tricks to achieve <5' measurements, like lowered floors and raised grades that developers will claim did not occur or did not take place within the 5-year limit set in 17-18. Such misrepresentations will likely succeed as DCRA relies upon applicants to submit accurate information, and the ZA has demonstrated a disinclination to stem existing misrepresentations. More fundamentally, however, is the jarring illogic in 17-18 to define “grade, finished” and then provide for “grade, exceptions” that render the former definition nearly meaningless. Likewise, the proposed truncated definition of “habitable room” would essentially gut the very purpose—and need—for a basement/cellar distinction, which is to determine what to count in density formulas: occupied space that has an impact on the built infrastructure.

17-18 Recommendations

Keep Current Habitability Definitions, Explore Further in 17-18A

Recommendation: Definitions - 100.2 - Leave the Habitable Room definition unchanged
Recommendation: Definitions - 100.2 - Leave the Story definition unchanged
Recommendation: 304.7 and 304.8 - Count habitable cellars in GFA and as a story

Rationale: OP's 17-18 revision to the Habitable Room, GFA, and Story definitions to exclude cellars will gut the very purpose of the definitional distinction between a cellar versus a basement, which is based on the interrelated factors of habitability and measurement. Under 17-18, removing consideration of habitability breaks this chain of logic and reduces the definitional distinction to a 1" measurement difference (4'11" for a cellar). The ZC can undertake a thorough assessment of habitability and its relationship to density rules and the basement/cellar rule in future 17-18A discussions.

Use Prior 17-18 Areaway Definition Limiting Width

Recommendation: Definitions - 100.2 – Areaway - Restore language from 17-18 (May 14, 2018 version) to limit the width of an areaway: "and is not more than five feet (5 ft.) wide along the face of the building;"

Rationale: Unfortunately, 17-18 proposes to codify the ZA's to-date unauthorized exclusion of areaways as the finished grade. If adopted, 17-18 should put some limits on the allowable width of areaways. Otherwise, areaways will simply extend across entire widths of countless row houses, creating modern medieval moats in many of the city's row house neighborhoods in a visual demonstration of the absurdity of the areaway grade exclusion.

Require Use of Perimeter Wall Method for Partially Attached Buildings

Recommendation: 304.4 and 304.5 - Use the perimeter wall method to calculate GFA for partially attached buildings and use the detached side wall grade measurement as proxy measure for opposing attached side wall.

Rationale: There is little or no reason to not use the perimeter wall method for partially attached row houses as the dimensions are readily measurable.