

MEMORANDUM

TO: District of Columbia Zoning Commission

FROM: ^{JLS} Jennifer Steingasser, Deputy Director, Development Review & Historic Preservation
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DATE: July 20, 2020

SUBJECT: ZC Cases 19-27 and 19-27A – Public Hearing Report for a Proposed Text Amendment to Reorganize Subtitles D, E, F, G, and H along with Conforming Text in Subtitles C, K, and U.

I. BACKGROUND

At its November 18, 2019 public meeting, the Zoning Commission set down for a public hearing Text Amendment Case 19-27, which would amend Subtitles D, E, and F and at its April 27, 2020 virtual public meeting, the Zoning Commission set down for public hearing Text Amendment Case 19-27A, which would amend Subtitles C, G, H, K, and U. These text amendments are intended to reorganize the Zoning Regulations text to reduce redundancy; clarify the relationship between zones, including new base zones and geographically identified zones from case 18-16; and facilitate future text amendments.

II. RECOMMENDATION

The Office of Planning (OP) recommends that the Zoning Commission **approve** the proposed text amendments, as provided in draft form in the June 4, 2020 Virtual Public Hearing Notice¹. The proposal would *not be inconsistent* with the Comprehensive Plan.

OP requests that the Commission grant flexibility for OP to continue to work with the Office of the Attorney General and the Office of Zoning to refine the proposed text and add any conforming language as necessary, and to incorporate the final language of pending text amendments after final action on those cases.

III. COMMISSION COMMENTS FROM SET DOWN MEETING

The following summarizes Zoning Commission comments and requests for additional information relating to the proposed text amendment from the set down meeting:

¹ ZC Case 19-27, Exhibit 6, dated June 4, 2020 and ZC Case 19-27A, Exhibit 4, dated June 4, 2020.

Comment	Response
Provide a “clean” version of the proposed text amendments in the record in addition to the blackline version showing the proposed text amendments as edits to the current text.	“Clean” versions of each Subtitle have been uploaded in the record as follows: <u>19-27</u> Subtitle D – Exhibit 8 Subtitle E – Exhibit 9 Subtitle F – Exhibit 10 <u>19-27A</u> Subtitle G – Exhibit 6 Subtitle H – Exhibit 7
Provide a list of any proposed changes or corrections beyond the text reorganization.	A list of changes has been included in Section V of this report.

IV. PROPOSED TEXT AMENDMENTS

The proposed text amendments are summarized below. The full proposed text may be found in the Public Hearing Notice at Exhibit 6 in ZC Case 19-27 and Exhibit 4 in ZC Case 19-27A.

ZC Case 19-27

ZC Case 19-27 proposed text amendment to:

- Apply the zone name changes proposed in ZC Case 18-16;
- Reorganize the structure of:
 - Subtitle D, Residential House (R) Zones;
 - Subtitle E, Residential Flat (RF) Zones;
 - Subtitle F, Residential Apartment (RA) Zones; and
- Reorganize Subtitle K, Chapter 7, Reed-Cooke by moving the RA zone provisions to a new Chapter 6, Reed-Cooke Residential Apartment Zone in Subtitle F.

ZC Case 19-27A

ZC Case 19-27A proposed text amendment to:

- Apply the zone name changes proposed in ZC Case 18-16;
- Reorganize the structure of:
 - Subtitle G, Mixed-Use (MU) Zones; and
 - Subtitle H, Neighborhood Mixed-Use (NC) Zones;
- Reorganize Subtitle C, General Rules by deleting Chapter 16 Public Recreation or Library Buildings or Structures and moving its provisions to Subtitles D, E, F, G and H as appropriate; and
- Reorganize Subtitle K, Special Purpose Zones, by deleting Chapter 7 Reed-Cooke and moving the provisions applying to MU zones to:

- Subtitle G, Mixed Used (MU) Zones as a new Chapter 8 Reed-Cooke Mixed-use Zones; and
- Subtitle U, Use Permissions as a new subsection 514.2.

V. CHANGES TO THE APPLICATION SINCE SET DOWN

There are no substantive changes to any of the development standards, uses, or other permissions proposed as part of the reorganization cases. The following revisions have been made since set down to correct errors and inconsistencies that were identified in the Zoning Regulations text.

Subtitle D

1. Changed “subtitle” to “title” to reflect that other subtitles of the ZR may amend the subject subtitle.
2. Public schools introductory text is deleted at D § 104.1 – 104.3 because public schools regulations are now incorporated into Subtitle D, Chapter 49.
3. Table D § 202.3 is corrected to read 3,200 minimum lot area for R-2 detached structures instead of 3,000 to match existing ZR16.
4. D § 202.6 is deleted to be consistent with the revised text of ZC 19-14.
5. Table D § 210.1 – Maximum Lot Occupancy at the R-3 zone is revised to change “Row” to “Single Household Row” to clarify that the regulation only applies to single family row buildings.
6. D § 212.2 for public recreation and community centers is revised to make it more clear that lot occupancy and density special exceptions are limited to specific criteria.
7. Table D § 402.1 is corrected by deleting the minimum lot width and minimum lot area for the R-1B/FH and R-2/FH zones because these regulations do not modify the underlying R-1B or R-2 zones.
8. “not including the penthouse” is added in D §§ 502.1 and 601.1. The R-1A/TS/NO, R-1B/NO and R-3/NO zones always allowed penthouses separate from the overall height regulation. Without this additional language it could read that penthouse height must be included in the overall permitted height. Further, this additional language matches the existing language in the R-11, R-12, and R-13 zones in ZR16.
9. Public recreation and community centers are deleted from the lot occupancy requirements in modifier zones to make it explicit that they are subject to a maximum lot occupancy of 20% and not 30% - see Subtitle D §§ 302.2; 404.2; 503.2; and 703.2; and 1002.4.
10. Added in all public school regulations in Chapter 49. All zone names are amended to reflect the new zone names.
11. Special exception D § 5206 was created under case number ZC 04-33I and is deleted because it is redundant.

Subtitle E

1. Changed “subtitle” to “title” to reflect that other subtitles of the ZR may amend the subject subtitle.
2. Public schools introductory text is deleted at E § 104.1 – 104.3 because public schools regulations are now incorporated into Subtitle E, Chapter 49.

3. Table E § 201.6 is amended to delete public recreation and community centers from RF-4 and RF-5 zones since its 1.8 FAR requirement is covered under “All Other Structures.”
4. E §§ 202.1 and 202.2 are combined because they were erroneously separated in ZR16. This change matches how the regulation read in ZR58.
5. E § 202.6 is deleted to be consistent with the revised text of ZC 19-14.
6. E § 212.2 for public recreation and community centers is revised to make it more clear that lot occupancy and density special exceptions are limited to specific criteria.
7. The following PUD related text at Subtitle E § 301.1 is added: “The matter-of-right building height, floor area ratio, and penthouse height limits shall serve as the maximum permitted building height, floor area ratio, and penthouse height for a planned unit development” to clarify that the Dupont Circle modifier zone is exempt from development standard modifications through a PUD. This aligns with the overlay text from ZR58.
8. Added in all public school regulations in Chapter 49. All zone names are amended to reflect the new zone names.
9. Special exception E § 5206 was created under 04-33I and is deleted because it is redundant.

Subtitle F

1. Changed “subtitle” to “title” to reflect that other subtitles of the ZR may amend the subject subtitle.
2. Public schools introductory text is deleted at § 104.1 – 104.3 because public schools regulations are now incorporated into Subtitle F, Chapter 49.
3. Revised table F § 210.1 – Maximum Lot Occupancy to add in a lot occupancy maximum of 60% for “Places of Worship.” Under ZR58, the former R-5-A zone had a carve out for “churches” to have 60% lot occupancy and ZR16 erroneously did not carry this forward.
4. F § 301.1 is revised to make the sentence structure for the height regulation in the RA-1/NO zone match the sentence structure for the NO zones in Subtitle D.
5. F § 401.2 is deleted because the CAP overlay limited all buildings to 40 ft. including public recreation and community centers. This revision matches the 40 ft. max height requirement that is in the RF-1/CAP zone and the MU CAP zones.
6. F § 401.3 for colleges and universities is deleted because the CAP overlay limited all buildings to 40 ft.
7. The following PUD related text at Subtitle E § 501.1 is added: “The matter-of-right building height, floor area ratio, and penthouse height limits shall serve as the maximum permitted building height, floor area ratio, and penthouse height for a planned unit development” to clarify that the Dupont Circle modifier zone is exempt from development standard modifications through a PUD. This aligns with the overlay text from ZR58.
8. F § 501.1 is deleted as existed in set down report because it is redundant and already covered by F § 203.7. It was also never applicable to the RA-4 zone in either ZR58 or ZR16.
9. Table F § 603.1 (note that it reads as Table G in PHN) is revised to clarify that the RC zone only permits a 1 story penthouse for both habitable and mechanical space, which is different than the base RA-2 zone, which permits a second story for mechanical space.

10. Added in all public school regulations in Chapter 49. All zone names are amended to reflect the new zone names. The following revisions to public school regulations are also made:
 - a. Minimum lot area and minimum lot width lumps in the RA-9 (RA-4/DC) zone with the RA-1 and RA-2 zones. However, this never existed in ZR58. The regulations are revised so that the RA-4/DC zone is part of the base RA-4 zone for minimum lot area and lot occupancy.
 - b. The RA-6 (RA-1/NO), RA-7 (RA-2/CAP), RA-8 (RA-2/DC), and RA-9 (RA-4/DC) zones modify maximum lot occupancy from their base zones. However, this modification also never existed in ZR58. The regulations are revised so these modifier zones follow their base zone lot occupancy requirements.
11. Special exception E § 5206 was created under 04-33I and is deleted because it is redundant.

Subtitle G

1. Changed “subtitle” to “title” to reflect that other subtitles of the ZR may amend the subject subtitle.
2. Public schools introductory text is deleted at § 105.1 – 105.3 because public schools regulations are now incorporated into Subtitle G, Chapter 49.
3. Revised Reed-Cooke zones as follows:
 - a. Renamed the heading of Section 801 to “Miscellaneous” to match the similar section in the RA-2/RC zone in Subtitle F.
 - b. Added in Subtitle G § 801.4, which was erroneously left out of the set down report and currently exists in ZR16.
 - c. Added in 12 ft. into Table G § 803.1 to clarify that a habitable penthouse is subject to maximum height limit of 12 ft. and 1 story.
4. Added in all public school regulations in Chapter 49.

Subtitle H

1. Changed “subtitle” to “title” to reflect that other subtitles of the ZR may amend the subject subtitle.
2. Public schools introductory text is deleted at § 105.1 – 105.3 because public schools regulations are now incorporated into Subtitle G, Chapter 49.
3. All public school regulations in Chapter 49 are deleted because they are now located in Subtitle G, Chapter 49.

In addition to the changes noted above, OP has identified the following additional areas for correction. These amendments have been identified based on recently approved text amendment cases (ZC Cases 04-33I and 19-21) and discussions with the Zoning Administrator. OP requests flexibility to work with OAG to incorporate these revisions.

Subtitle C

1. The reference to D/E/F § 5206 in Subtitle C §1001.2(b)(3) should be deleted because OP simplified the special exception relief for voluntary IZ developments by deleting the redundant 5206 special exception.

Subtitle E

1. These two comments correspond with forthcoming changes to ZC 19-21:
 - a) E § 201.5 should be deleted because ZC 19-21 deletes the equivalent of this section, which is currently § 201.7 under the existing regulations.
 - b) E § 201.4 should be amended to delete out “existing before May 12, 1958”. This date is not needed because it actually limits what Subtitle U, Chapter 3 permits under the text amendment for ZC 19-21.

Subtitle G

1. Revisions should be made to address inconsistencies in the non-residential FAR permitted for certain MU zones where buildings are on lots that are 10,000 sq. ft. or less.

VI. ANALYSIS

At the time of adoption of the 2016 Zoning Regulations (ZR16), OP agreed to monitor the use and functionality of the new regulations. One of the issues of concern raised at the public hearings was the change to the zone names and the removal of the geographic identification provided through the overlays within the 1958 regulations. OP proposed a text amendment through ZC Case 18-16 to revise the existing zone names. The pending new zone names create a familiar and direct link to the common base zones and include the geographic identifiers formerly used in the 1958 overlays. On December 17, 2018 the Commission took proposed action to approve the new zone names.

The Commission, along with other members of the public, also expressed concerns about the volume of the ZR16 regulations, which is partially the result of repeating the total development standards for each single zone. The reorganization would reduce duplication of development standards by locating primary development standards within a single base zone chapter that would apply unless modified by changes in specific zone chapters

The proposed reorganization of the Zoning Regulations also would result in the following specific benefits:

- Clarify the relationship between zones, especially zones with the same base zone (i.e. all the MU-4 share the same primary standards);
- Clarify the relationship between the geographically defined or modified zones, especially as seen on a zoning map (i.e. all the Capitol Interest (CAP) zones will be easily identified); and
- Simplify the amendment process and reduce potential errors because most amendments would only need to be made to the base zone.

The proposed reorganization does not include and would not result in substantive changes to the existing Zoning Regulations.

VII. PLANNING CONTEXT

a. COMPREHENSIVE PLAN

As discussed during the Zoning Regulations Review (ZR16) process, the Implementation Element of the Comprehensive Plan calls for substantial revision and reorganization.

IM-1.3 Zoning Regulations and Consistency ²⁵⁰⁴ ...*The Zoning Regulations themselves need substantial revision and reorganization, ranging from new*

definitions to updated development and design standards, and even new zones...2504.2

Policy IM-1.3.1: Updating Land Use Controls *Regularly review and update the District's land use controls and building codes to eliminate obsolete regulations and develop new regulations that address emerging issues, land uses, building types, and technologies. 2504.3*

Building on the work completed as part of ZR16, the proposed text amendment would further Comprehensive Plan policy objectives, particularly with respect to policies within the Implementation Element.

VIII. COMMUNITY COMMENTS

At Exhibit 11, in ZC Case 19-27, and at Exhibit 8 in ZC Case 19-27A, the Committee of 100 on the Federal City submitted a request to postpone the hearing.

JS/jk/emv