

District of Columbia Government
Advisory Neighborhood Commission 6A
Box 75115
Washington, DC 20013



October 18, 2004

Zoning Advisory Committee
c/o Office of Zoning
Suite 210-S
441 4th Street, NE
Washington, DC 20001

Re: ANC 6A Suggestions for Revisions to Zoning Regulations

Dear Zoning Advisory Committee:

On October 14, 2004, ANC 6A voted to forward the attached comments for the consideration of the Zoning Advisory Committee. Please contact Commissioner Cody Rice at (202) 544-3734 with any questions.

Respectfully yours,

Joseph Fengler
Chair, Advisory Neighborhood Commission 6A
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ANC 6A COMMENTS FOR ZONING ADVISORY COMMITTEE

1. Interpretation of Fair Housing Act to restrict public input on certain facilities

The zoning regulations need to allow for public input through special exceptions and variances on facilities and uses that affect the health, safety, and welfare of the neighborhood. There seems to be a trend of applying an expansive interpretation of the Fair Housing Act to restrict public input for certain types of facilities, especially those where occupants can be conveniently labeled as having a disability.

One example is the youth rehabilitation home built by the Youth Services Administration at 1626 Kramer St, NE. This facility was constructed with a building permit that listed the use as “dwelling for handi cap” to avoid triggering the zoning requirements associated with a youth rehabilitation home. In this case, the future occupants’ involvement in the justice system was equated with a disability to avoid public input on the placement of the facility. A correct designation of the facility’s use would have triggered the special exception process allowing for public participation and input.

Another example is the certificate of occupancy issued to MedLINK for a reduction in parking spaces on the theory that the facility should be treated as the residential use with the lowest parking space requirement. This issue was appealed in BZA 17043, noting that the facility has an impact on parking availability consistent with a hospital or nursing home rather than like a simple residential dwelling.

While buildings that provide housing for persons with disabilities should not be subject to more onerous requirements simply because of the status of the occupants, there should be some attention to the fact that certain uses draw more police calls, fire/medical calls, require more parking, and can lead to an over concentration of social services. The zoning code needs to provide opportunities for public input on uses that have these external effects on a neighborhood regardless of the disability status of the building’s occupants. Perhaps a more equitable approach would be to require special exceptions of all buildings with more than a certain number of residents.

2. Side yard requirements at 11 DCMR 405.3

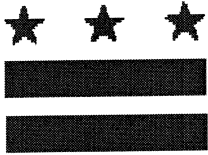
“In R-2, R-3, R-4, and R-5 Districts, when a one-family dwelling, flat, or multiple dwelling is erected that does not share a common division wall with an existing building or a building being constructed together with the new building, then it shall have a side yard on each resulting freestanding side.”

Need to clarify requirement for special exception or variance when the subject building lot extends along the rear lot lines of other abutting lots, as can sometimes happen at the corners of blocks. Without a special exception or variance, additions or new construction can block the light and air available via the rear yards of abutting lots, particularly if the abutting lot already has a nonconforming rear yard. Owners of these affected properties should have an opportunity through the special exception process to address concerns about an addition or new construction.

Even if the lot does not abut the rear lot line of other lots, how extensive does the common division wall need to be? Is a single-story common division wall sufficient? Must it attach for the entire length of the two buildings?

3. Define “delicatessen” to distinguish from “fast-food restaurant”

The definition of fast-food restaurant at 11 DCMR 199.1 includes an exclusion from the disposable container and tableware portion of the definition for certain facilities that sell food or beverages as an accessory



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use or for off-premises preparation and consumption. One of the types of facilities explicitly identified for this exclusion is “delicatessen.” However, there is no definition of delicatessen in the zoning regulations. A definition should be provided that clearly distinguishes a delicatessen from a fast-food restaurant based on significant sales of food or beverages for preparation and consumption off-premises (e.g., meats, cheese, and condiments in bulk) at a delicatessen. Sandwich shops (like Subway and Blimpie) and other carryout businesses are better classified as fast-food restaurants if they do not have significant sales of food and beverages for preparation and consumption off-site.

4. Requirements for Emergency Shelters, Adult Rehabilitation Homes, and Community Correction Facilities (Halfway Houses)

Consistent with the recommendations of the DC Community Corrections Facility Siting Advisory Commission, zoning regulations should limit the maximum size of these facilities to no more than 20-30 residents, even in CM districts. Facilities above this size primarily benefit the builder and operator in terms of economies of scale in construction and operation. It is questionable whether larger facilities meet the need of residents for individualized supervision and treatment.

The Zoning Commission should establish a process for siting new facilities that involves the community through the ANCs. Although city agencies should involve communities in planning through the ANCs when these facilities are under consideration as a matter of courtesy and law, the practice is to start building and see if anyone notices. Regulations also need to ensure an equitable distribution of these facilities across and within Wards.

5. Offer additional residential FAR for affordable housing

In higher density residential and mixed use areas, provide an additional 1.0 FAR above the underlying zone for residential uses if a minimum of 10% of the units representing a cross-section of all types of units offered are made affordable for tenants making 80% or less of the Area Median Income and that mechanisms are in place to ensure the units remain affordable at this level for a minimum of 20 years. (This is consistent with the joint ANC 6A/6C recommendations for H Zoning and Overlay.)

6. Add FAR and increase lot occupancy for reuse of pre-1950 buildings in C-2-A

In 11 DCMR 771 and 772, consider adding 0.5 FAR and allowing 80% lot occupancy in C-2-A Districts to encourage reuse and rehabilitation of older buildings. Current non-residential FAR of 1.5 and lot occupancy of 60% in C-2-A Districts can present a barrier for redevelopment and reuse of existing buildings for commercial, office, and retail uses.

7. Add percentage requirements for permeable surfaces in residential yards

In 11 DCMR 404 and 405, consider adding a percentage requirement for permeable surfaces in residential side and rear yards to help limit urban storm water runoff, reduce heat island effects, and provide green space.