

Major Changes to District of Columbia Zoning Regulations

August 3, 2015

Goulston & Storrs' Land Use Group

I. Zoning Regulations Rewrite

Effective in early 2016, the District of Columbia Zoning Commission will adopt a major overhaul of the zoning regulations. Although the overhaul is intended to simplify and update the 1958 zoning regulations, the new regulations may instead complicate real estate development in the District of Columbia. All users of real property – residents, commercial owners, institutional owners, schools, universities, museums and nonprofits – are affected by the proposed new regulations. The draft new text is available for review and comment until September 25, 2015, after which the Zoning Commission will take final action to approve the proposed new regulations.

We are currently undertaking a comprehensive review of the entire 1,000-page updated regulations, which fundamentally alter the structure and form of the existing zoning regulations. Key changes include:

- Reorganization and renaming of existing zone categories. For example, the old commercial (C) zones and their respective overlays have been reorganized into neighborhood commercial (NC), mixed use (MU), or downtown (D) zones.
- Introduction of new “use categories,” which replace the old laundry lists of individual permitted uses and generally (but not always) maintain the existing permitted uses in each zone.
- A complete overhaul of parking and loading requirements, which will modify or eliminate the minimum requirements, incorporate new requirements for bicycle parking, and impose mandatory transportation demand management measures for excess parking.
- Fundamental restructuring of transferable and combined lot development rights, which will impact the use and value of existing TDRs and CLDs as well as the potential supply of future development rights.
- Modifications to technical definitions of core zoning parameters such as height, gross floor area, yards and courts, which in some cases modify long-held interpretations and understandings of these key concepts and may impact potential development as well as existing buildings and structures.
- Alterations to the maximum permitted height and density for planned unit developments.
- Procedural changes to the Zoning Commission, Board of Zoning Adjustment, and Zoning Administrator review and approval processes.

The changes associated with the proposed regulations alter the zoning landscape and will have a variety of impacts on existing and proposed projects. Any project not currently vested under the current 1958 zoning regulations will be subject to the proposed new zoning regulations. Projects that have filed an application for a building permit as well as projects in the planning and design phase that have secured a discretionary entitlement approval (such as BZA or PUD approval) will be vested under the current zoning regulations. However, matter-of-right projects that are in the planning and development stages but have not yet filed for permit review by the time the new regulations take effect (such as those projects in the DD Overlay and the Receiving Zones that intend to rely on transferable development rights or combined lot development rights), will be subject to the new regulations.

II. Roof Structure Regulations

In addition to the comprehensive new Zoning Regulations, the Zoning Commission is separately considering changes to the roof structure requirements that will expand the permitted range of uses within roof structures but also impose new height, bulk, and setback requirements for roof structures. The proposed regulations will be published in the D.C. Register on August 7th and the record will be open for comments until October 9th. The Zoning Commission currently expects to take action on October 19th.

III. Inclusionary Zoning Regulations

Finally, the Zoning Commission is also considering modifications to the District's Inclusionary Zoning program that could alter and, in some cases, deepen the set-aside and affordability requirements for both rental and for-sale residential units. The proposal could also allow for IZ units to be transferred off-site as a matter of right, in exchange for an increase in the total number of affordable units.

We have found that the most effective way to understand the impact of the proposed regulatory changes on a specific property is through a site-specific analysis. We would be glad to meet or talk with you about the impact of the Zoning Commission's proposed new regulations on your property. Please feel free to contact Phil, Maureen, John, Allison, Paul, Jeff, Christine, Dave and Cary as well as our two new members, Dave Lewis and Meghan Hottel-Cox, at your convenience, and we would be happy to review how the new regulations impact your property.

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