

CAPITOL HILL RESTORATION SOCIETY

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November 3, 2013

Zoning Commission for the District of Columbia
Suite 210
441 4th Street, NW
Washington, DC 20001

RE: Capitol Hill Restoration Society Comments on Case No. 08-06A, Draft
Proposed Text, Subtitles A, W, X, Y, and Z.

Dear Members of the Commission,

This letter is submitted by the Capitol Hill Restoration Society (CHRS) and provides comments on the draft proposed text of the Zoning Regulations in Case No. 08-06A. This letter addresses Subtitles A, W, X, Y, and Z that are set for hearing on November 4. Subsequent letters will address the other sections that are set for hearing over the next three weeks.

Subtitle A—Authority and Applicability

The Comprehensive Plan is mentioned in several places in the draft proposed text, but it is not identified as an authority in the text along with other statutes. Chapter 4—Other Authorities should have a section 404—Comprehensive Plan added.

Subtitle W—Mapping

This subtitle is missing the Capitol Interest (CAP) Overlay.

Subtitle X—General Procedures

1. The table of comparative information on page 20 incorrectly shows the replacement for R-4 to be R-16, R-17, and R-18. This should be RF.
2. Section 305.5, public benefits of a PUD, on page X-24 should include dog parks.
3. Section 308.14 regarding the OAG response to the proffer says that the “OAG response will be treated as a confidential attorney client communication.” Making the OAG opinion secret is contrary to the Comprehensive Plan policy that the Zoning Commission should have transparency in decision-making (Policy IM-1.5.4). The attorney client privilege is the client’s, not the OAG’s and the Commission may waive it at any time without the approval of the attorney. It is the Commission that owns the privilege.

If this section is not deleted, a second problem with this confidential communication is created. How soon should it become part of the record and available to the public? Restricting it forever is unacceptable and is also contrary to transparency in government.

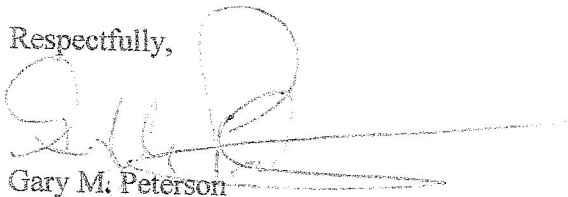
**Subtitle Y—Board of Zoning Adjustment Rules of Practice and Procedure and
Subtitle Z—Zoning Commission Rules of Practice and Procedure**

Both of these Subtitles have a section 404 Requesting Party Status (pages Y-29 and Z-21) that do not address problems that CHRS has encountered in past cases.

1. The first problem is that the required statement in Title Y 404.1(d)(6) and in Title Z 404.1(f) apply only to persons and not organizations. Such things as what property you own and the distance from the subject property don't apply to an organization such as CHRS. CHRS is concerned that it will not qualify for party status under these conditions.
2. The second problem is the timing of party status.
 - a. In a few instances CHRS has had an expert witness ready to testify at a hearing only to be denied party status at the hearing and told it cannot call witnesses. Party status should be decided weeks prior to the hearing to avoid this event. This is especially important in Zoning Commission cases.
 - b. Another problem with party status is that the service of documents is only required to be made on parties. Until party status has been decided no service is required to be made on someone requesting party status. Service on a party should be amended to require service on someone requesting party status.

Thank you very much for your consideration of these comments/

Respectfully,



Gary M. Peterson

Chair Capitol Hill Restoration Society Zoning Committee and
Ward 6 Representative to the Zoning Review Task Force

November 4, 2013

Zoning Commission for the District of Columbia
Suite 210
441 4th Street, NW
Washington, DC 20001

RE: Capitol Hill Restoration Society Comments on Case No. 08-06A, Draft
Proposed Text, Subtitle B.

Dear Members of the Commission,

This letter is submitted by the Capitol Hill Restoration Society (CHRS) and provides comments on the draft proposed text of the Zoning Regulations in Case No. 08-06A. This letter addresses Subtitle B that is set for hearing on November 5.

Definitions, Terms and Phrases

CHRS has a strong interest in the four definitions below that refer to historic preservation. These terms are frequently used by historic preservation specialist and have become words of art. Everyone should be using the same definitions and using the same definitions is consistent with the Comprehensive Plan's goal to reconcile zoning and historic preservation. CHRS submits changes in the draft definitions to make the definitions identical to current usage in the historic preservation community. The changes are italicized:

Historic District: An area listed as an historic district in the D.C. Inventory, or which the State Historic Preservation Officer has nominated or issued a written determination to nominate to the National Register *of Historic Places* after a public hearing before the Historic Preservation Review Board. (DCMR 10A)

Historic Landmark: A building, structure, object or feature, and its site, or a site
(a) Listed in the D.C. Inventory *or National Register of Historic Places*, or

Historic Landmark and Historic District Protection Act of 1978: This section is fine as written.

Historic Resource: A building, *structure, object or feature, and its site, or a site* listed in the District of Columbia Inventory of Historic Sites *or the National Register of Historic Places* or a building, *structure, feature, and its site, or a site* certified in writing by the Historic Preservation Office as contributing to the character of the historic district in which it is located.

Use Groups

OP's hearing report for Subtitle B recommends a change in the draft use group definition for Section 201.10 Eating and Drinking Establishments. CHRS supports the change.

CHRS also recommends that community garden be removed from Section 201.1(b) and added to Section 201.2. Community gardens are more a residential function. CHRS also recommends that the eventual sale of animals in Section 201.2 be removed and the type of domestic animals be modified to be small animals only. As written, a cow or llama would be allowed. The proposed revised section should read:

201.2 Agricultural, residential: The on-site cultivation or maintenance of plants, or keeping of *small* domestic animals intended for personal use. Typical products of a residential agricultural use include produce garden crops, flowers, *community gardens*, and honeybees. This use group does not include the customary landscaping of yards, or keeping of household pets.

Thank you very much for your consideration of these comments.

Respectfully,

A handwritten signature in black ink, appearing to read 'G. Peterson', enclosed within a rectangular box.

Gary M. Peterson

Chair Capitol Hill Restoration Society Zoning Committee and
Ward 6 Representative to the Zoning Review Task Force