

STAFF RECOMMENDATION

(Revised 12-07-06)

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NCPC File No. ZC 05-02



TEXT AMENDMENT TO ZONING REGULATIONS OF THE DISTRICT OF COLUMBIA TO AMEND (REPEAL) THE PROVISIONS PERTAINING TO RECREATION SPACE IN THE C (COMMERCIAL), CR (MIXED-USE COMMERCIAL RESIDENTIAL), AND SP (SPECIAL PURPOSE) ZONE DISTRICTS

Washington, D.C.

Submitted By the District of Columbia Zoning Commission

November 30, 2006

Abstract

The District of Columbia Zoning Commission has submitted a proposed text amendment to the zoning regulations of the District of Columbia to repeal the provisions pertaining to recreation space in C (Commercial), CR (Mixed-Use Commercial Residential), and SP (Special Purpose) zone districts. The proposed amendment to the regulations would also permit penthouses for restrooms and storage to support rooftop recreation uses other than swimming pools.

Federal Interest

The identified federal interest relevant to this proposal is federal lands that are used by District of Columbia residents for recreational purposes.

Commission Action Requested by Applicant

Approval of report to the Zoning Commission for the District of Columbia pursuant to 40 U.S.C. § 8724(a) and D.C. Code § 2-1006(a).

Executive Director's Recommendation

The Commission:

Finds that the proposed text amendment to the zoning regulations of the District of Columbia to amend (repeal) the provisions pertaining to recreation space in the C, CR, and SP zone districts would be inconsistent with the Federal and District Elements of the Comprehensive Plan for the National Capital because it could exacerbate existing gaps in the park system of the District of Columbia, and that it is likely to have an adverse impact on the identified federal interests by resulting in overuse of elements of the federal park system.

Requests that the Zoning Commission consider reducing the required percentage of gross square footage of residential recreation space to a more realistic level rather than repealing the provisions entirely.

Recommends, in the long run, that alternative tools and methods of achieving the residential recreation space goals of the Federal and District Elements of the Comprehensive Plan for the National Capital be further evaluated jointly by the staffs of the District of Columbia Office of Planning, the District of Columbia Department of Parks and Recreation, the National Park Service, and the National Capital Planning Commission following further study under the “CapitalSpace” initiative, which is currently under development by the staffs of these agencies.

Notes that the related proposed changes to penthouse provisions are not inconsistent with the Comprehensive Plan and are not adverse to the identified federal interest as they do not relieve proposed development of compliance with the Height of Buildings Act of 1910, setback and area requirements, or other related codes and regulations.

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PROJECT DESCRIPTION

Background

Current zoning regulations for the C (Commercial), CR (Mixed Use Commercial Residential) and SP (Special Purpose) zone districts requires development to include private recreation space, ranging from five to twenty percent of the gross residential floor area; typically a minimum of 50 percent of that space is required to be outdoors, either at grade or on rooftops. There is no equivalent requirement in the residential (R) zone districts.

As development in these zone districts has increased over the past several years, many residential or mixed-use projects in these areas have requested relief from these requirements due to the existence of other recreational opportunities in the area and the costs related to meeting this provision. The requirement for the Downtown Overlay District was reduced to 5% in 2001 and several other requirements have been approved by the BZA on a case-by-case basis. In an effort to promote development in the affected zone districts, and to reduce costs and frequency of similar cases being considered by the BZA, the DC Office of Planning has requested an amendment to the residential recreation space requirements.

The case was originally reviewed at the June 27, 2005 hearing of the Zoning Commission; at that time the DC Office of Planning (DCOP) recommended reducing the amount of recreation space required in the C (Commercial), CR (Mixed Use Commercial Residential) and SP (Special Purpose) zone districts where it is currently required, creating a special exception process for relief from residential recreation space requirements, and several other minor amendments to alleviate some of the difficulties encountered when trying to comply with the residential recreation space provisions. There was little testimony in support of reducing the amount of recreation space required or creating a special exception process to allow relief from the requirements. Instead, the testimony was overwhelmingly in favor of doing away with the residential recreation requirements completely.

On September 15, 2005, Z.C. Case No. 05-02 was before the Zoning Commission for proposed action; the Commission decided to change course and re-advertise the case to repeal all residential recreation space provisions. In November, 2005, the DCOP requested that, before re-advertisement, it be permitted to prepare an additional set-down report examining the reallocation of some of the now-required residential recreation space toward the affordable housing component of the inclusionary zoning provisions currently being considered by the Commission.

On March 3, 2006, DCOP filed a new set-down report linking the elimination of the residential recreation space requirements with the provision of affordable housing, while retaining many of the regulatory changes recommended in the original set-down report. In that report, DCOP continued to recommend permitting incidental and accessory roof-top enclosed areas for recreation space, and not just for swimming pools, as the regulation now states.

On March 13, 2006, at a public meeting, the Zoning Commission decided not to withdraw its earlier decision to hold a hearing on whether recreation space requirements should be entirely repealed. Instead, the Commission decided to re-advertise this case in the alternative and to undertake a two-stage decision making approach.

Proposal

At their November 6, 2006 public hearing, the Zoning Commission voted in favor of repealing all residential recreation space requirements in the identified zone districts (C, CR, and SP). If the vote had not been in favor of the repeal, DCOP's alternate recommendation would have been considered.

In addition to repeal of the recreation requirements, Chapter 4, Section 411 of the regulations were amended to allow enclosed penthouse areas for restrooms and storage areas that support adjacent residential recreation space (currently permitted only for swimming pools). This was proposed to provide flexibility for the provision of accessory space associated with a variety of rooftop leisure and recreation uses. Such penthouse spaces would be subject to all applicable regulations, including height, setback, and maximum area.

FEDERAL INTEREST

Preliminary data collected under the CapitalSpace initiative suggests that areas in the zone districts being affected are primarily federal parks (up to 98%) and that the current capacity of recreation space in these areas does not accommodate current population levels. Data also reveals that facilities in highly populated areas adjacent to and in the affected zone districts need to have intensive maintenance programs to ensure no degradation of quality. For example, residential development in the Central Washington planning area (as defined by the District's draft Comprehensive Plan and where many of the affected zone districts are located) is expected to grow up to 96 percent by 2025; increased populations without concurrent provision of recreation space will exacerbate the need for maintenance of existing District facilities, and will cause local residents to further utilize already overused federal (National Park Service) facilities to meet recreation needs.

PROJECT ANALYSIS

Generally, there is a deficiency in current levels of park space (particularly for active recreation) in the considered zone districts, and the Zoning Commission action is not fully consistent with the Comprehensive Plan's recommendations for remedying this situation, especially as needs increase to accommodate population growth.

Staff finds that the proposed text amendment is inconsistent with the Parks and Open Space federal element, the Housing District element of the Comprehensive Plan for the National Capital, and the pending (draft) Parks, Recreation, and Open Space District element of the Comprehensive Plan.

Preliminary research conducted under the CapitalSpace initiative finds that the current availability of park and recreation space under DC jurisdiction is less than other cities, and only by including federal (NPS) facilities is it able to exceed that of other cities. Therefore, it is likely that occupants of residential units in zones affected by the proposed repeal of recreational space requirements will most likely use federally owned resources instead.

Research conducted by DCOP in July 2005 suggests that neighboring areas of Maryland and Virginia require more residential/open space than is currently required by DC Zoning regulations. It is important to note that also included in the Maryland and Virginia requirements are alternative means of satisfying recreation needs, to be determined on a case-by-case basis. The current DC zoning regulations also allow for relief from or changes to the zoning regulations on a case-by-case basis. While relief from the residential recreation space requirements is sometimes granted as part of this process, the DC Office of Planning, DC Zoning Commission and Board of Zoning Adjustment have an opportunity to review such changes and evaluate their local and cumulative effects; however, repeal of the requirements completely will eliminate this system of checks and balances.

Staff therefore finds that the action of the Zoning Commission related to repeal of residential recreation space provisions will result in an adverse affect on the identified federal interest. However, staff recognizes that current zoning regulations may be deficient in allowing the most flexibility for residential/mixed-use development in the identified zone districts, particularly when applied in areas adjacent to residential districts that do not have similar requirements.

Staff recommends that alternatives to achieve recreation space goals should be developed jointly by the DC Office of Planning, the DC Department of Parks and Recreation, the National Park Service and the National Capital Planning Commission to mitigate or eliminate the adverse affect on federal park and recreation space and facilities. It is anticipated that such evaluation will take place following collection and analysis of additional data (through the CapitalSpace initiative).

- The assessment of impact fees should be considered, with the goal of using these fees to support parks and active recreation facilities where needs are identified, in accordance with the proposed Parks, Recreation, and Open Space District Element of the Comprehensive plan; *Action PROS-1.4-A: Park Impact Fee:*

“Study the feasibility (including potential fiscal and economic effects) of adopting a park impact fee that would require residential developers to help cover the cost of parkland acquisition and improvement. Such a fee would be based on a standard amount per dwelling unit or square foot, with the proceeds used to acquire or improve nearby parkland.”

- The feasibility of alternate development requirements should be explored in order to meet other goals of the Comprehensive Plan of the National Capital. Such alternatives should not relieve the developers of their obligation to provide recreation/open space.

Staff also notes that the related changes to penthouse provisions, while not inconsistent with the Comprehensive Plan, do not relieve proposed development of compliance with the Height of Buildings Act of 1910, setback and area requirements, or other related codes and regulations.

CONFORMANCE

Comprehensive Plan for the National Capital

The proposed text amendment is inconsistent with Policy number 4 of the Parks and Open Space federal element of the Comprehensive Plan for the National Capital, that identifies the goal to “Coordinate planning and development of federal parkland with local parkland in order to optimize recreation, open space preservation, and resource protection.”

Additionally, the pending District Parks, Recreation, and Open Space element of the Comprehensive Plan (Mayor’s Draft) identifies several action items to address gaps in the parks system as well as for parks in employment growth areas. While these new elements have not yet been adopted, they identify critical gaps in current recreation space and present policies/action items to address those deficiencies. These policies and action items support the findings and recommendations of NCPC Staff.

PROS-1.2 Closing the Gaps

At first glance, the District of Columbia appears to have a more than adequate supply of parkland. There are 12.9 acres of parks per 1,000 residents, compared to 9.0 acres per 1,000 in Baltimore; 7.2 acres per 1,000 in Philadelphia; and 7.0 acres per 1,000 in Boston (*Trust for Public Land, 2004*). However, most of Washington’s parkland consists of passive Natural Resource Areas. Neighborhood and community parkland is much more limited and amounts to less than one acre per 1,000 residents in many parts of the city. By contrast, suburban communities typically set standards of 4 or 5 acres of active parkland per 1,000 residents. 805.1

Even neighborhoods with abundant parkland may lack access to recreational amenities and facilities. Other neighborhoods have parks that are too small to meet local needs. These neighborhoods include areas where significant growth is taking place, straining the ability of the facilities to meet neighborhood needs. Improved access to parks is also needed through improvements to bus service, enhancement to pedestrian and bicycle routes, as well as better security. 805.2

Recreational needs are also a function of demographics and density. The need for parks may be more critical in some areas of the city due to:

- Limited mobility due to low rates of auto ownership
- Larger numbers of children
- Larger numbers of apartment dwellers living in housing without useable open space
- Denser development patterns without the aesthetic amenities afforded by open space
- Larger concentrations of “at-risk” youth who may benefit from programmed recreational activities 805.3

These factors suggest that special attention be given to increasing useable open space in the city’s densest neighborhoods, even where parks already exist. 805.4

Policy PROS-1.2.1: Closing the Gaps

Achieve a better distribution of parks in all neighborhoods of the city. This will require a priority on improving or expanding parks in: (a) more densely populated neighborhoods with limited open space; (b) areas that are more than ½ mile from a neighborhood or community park (or a federal park that serves an equivalent function); (c) areas where substantial new housing growth is expected, based on the forecasts of the Comprehensive Plan; and (d) areas where the existing recreation centers and parks are in poor condition.805.5

PROS-1.4 Meeting the Needs of a Growing City

Action PROS-1.4-A: Park Impact Fee

Study the feasibility (including potential fiscal and economic effects) of adopting a park impact fee that would require residential developers to help cover the cost of parkland acquisition and improvement. Such a fee would be based on a standard amount per dwelling unit or square foot, with the proceeds used to acquire or improve nearby parkland. 807.10

Action PROS-1.4-B: Mixed-Use Zones

As part of the review of the city’s zoning regulations, revise the provisions for mixed-use zones to consider requirements for useable recreation space or payments in-lieu to meet recreational needs. 807.11

CapitalSpace

The *CapitalSpace* initiative is a multi-agency effort to address the need for additional park space in the District of Columbia and to improve access, quality, use and management coordination for federal and local park systems located in the District of Columbia. Key partners include the National Capital Planning Commission, the National Park Service, the D.C. Office of Planning, the D.C. Department of Parks and Recreation, and the D.C. Department of Transportation. The initiative has three phases: a needs and asset assessment, undertaken in FY 2006, completion of a framework plan in FY 2007, and development of an implementation strategy in FY 2008.

Based on preliminary research, NCPC staff has found that the District is underserved in park and recreation space when considering only DC property, but exceeds other cities if federal (NPS) property is included. Since occupants of residential units in zones affected by the proposed repeal of recreational space requirements will most likely use federally owned resources, the analysis generated by the CapitalSpace initiative should be used to inform future changes to the zoning requirements for residential recreation space.

The zone districts affected are largely within the “Central Washington” planning area and along development corridors (i.e., Georgia Avenue), as defined in the pending DC Comprehensive Plan. The following summarizes preliminary data for the affected areas:

- There is a shortage of active indoor and outdoor recreation space; these types of facilities (ball field, courts, swimming pools, recreation centers, etc.) do not fall under the mission of the National Park Service and are expected to be provided by the District of Columbia.
- Approximately 98% of recreation space in the Central Washington area is federal land; the District recreation facilities here are small and owned by DC Public Schools.
- Active recreation facilities in highly populated areas adjacent to and in the affected zone districts (particularly of the Central Washington and Near Northwest planning areas) need to have intensive maintenance programs to ensure no degradation of quality. Increased population without the addition of recreation space will only exacerbate this situation.
- National trends for meeting recreation space needs includes strategic alliances as well as community and commercial partnerships; these efforts are being made to increase the amount of public recreation space while fostering a community environment.