

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
PUBLIC HEARING ON CASE NO. 08-06-15
(Comprehensive Zoning Regulations Review: Administration, Enforcement
and Procedures)

February 17, 2011

Testimony of Alma Hardy Gates
Committee of 100 on the Federal City

Good evening chairman Hood and members of the Commission.

The Committee of 100 (C100) is before you tonight as a Zoning Task Force member who is concerned about the Zoning Regulation Rewrite (ZRR) process, procedures and communication. This is not intended to be personal so I apologize if anyone interprets my comments otherwise.

I clicked on the Office of Zoning Website to print out the Meeting Notice on Production, Distribution and Repair for tonight and discovered tonight's hearing was something entirely different than what had been noticed to the Task Force. OP does have a change noted on its website, but frankly, the notice from staff to the Task Force outlining hearing and subject dates was what I was using.

Task Force members who are still participating have been somewhat overwhelmed by the ZRR process as was noted at yesterday's oversight hearing. The proposed schedule on the announcement (Attached) is more ambitious than what was previously proposed and speeding up the process may not be the best way to address a new zoning code for the city. After all, we are no longer working under a "hurry up and get it done" mandate in the city.

Also, it would be very useful if, as a matter of course, task force members were sent hearing and meeting notices on the ZRR.

Communication and transparency are lacking in this process. Little effort has been made to move the ZRR beyond the Zoning Commission hearing room. There are lots of residents who are going to be very surprised when the rewrite is released and they are afforded a thirty day comment period.

I ask that the Commission hold open the record on CASE NO. 08-06-15 until the close of business on March 5 for all submission on this case to be put into the file.

I do have some comments to make on CASE NO 08-06-15.

Recommendation 4: Allow affected ANC(s) to submit an ANC Setdown Form prior to a ZC Setdown Meeting in all contested (or potentially contested) cases, in which the ANC(s) can provide comments on particular items related to the proposed project.

This recommendation was widely discussed during the Work Group meetings and by the Task Force. Recommendations were also resisted. In her testimony on October 4, 2010, Marilyn Simon stated the following, “First, the Zoning Commission should have access to input from the community prior to the set-down meeting. This should not be limited to the Applicant’s or OP’s summary of the community concerns. The Zoning Commission should be able to read comments from the ANC, community organizations and individuals prior to the set-down meeting. In the past, this was possible and based on those comments, the ZC provided the Applicant with guidance for preparing its pre-hearing submission.”¹

If a form from the ANC that does not carry “great weight” is to be accepted into the record prior to a hearing, why not community groups? They are often more on top of issues than a group of elected individuals who represent diverse areas.

¹ See, for example, the June 10, 2002 Zoning Commission Hearing, setting down Case 02-17. Vice Chairperson Hood asked several questions based on letters from the public, one of which pointed out that gross square footage allowed as a matter of right on the site was 78,912 SF, while the Applicants were requesting 235,000 SF. Another letter discussed at the set-down meeting included photographs of trees on the site. In the Supplemental Prehearing Submission, the proposed GSF was reduced to 185,000 SF.

A lengthy discussion took place on when a “record is created.” Perhaps the Zoning Commission would add “at what point a record exists” to its list of issues/items in need of clarification. If a record does not exist prior to a hearing, where does the OP report go? Logic would tell us that lots of paper exists before a record exists and it must be going into some type of file or record. Allowing communities to file a form similar to that proposed for ANCs is not going to prove burdensome and goes a long way in showing balance that the community often feels is missing when contested cases come before the Zoning Commission.

Recommendation 10: Require changes of nonconforming uses between use categories to first obtain approval of the BZA. Utilize evaluative criteria similar to those currently in § 2003.

An additional note I have from this work group meeting addressed § 2005: Discontinuance. It was suggested that the term be changed to “Abandonment.”

Recommendation 17: Work with the Zoning Administrator) “ZA” to:

- 1. Consolidate flexibility standards, to the extent practicable, into one location in the regulations:**
- 2. Establish consistency between flexibility across different types of orders; and**
- 3. Determine any criteria by which requests for flexibility should be evaluated.**

This recommendation is timely and criteria are clearly needed. A thorough review of the proposed “criteria” should cycle through the same process as other changes under the ZRR.

Attachment (1)