NCPC
NATIONAL CAPITAL PLANNING COMMISSION

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the District of Columbia
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Dr. Patricia Elwood

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The Honorable Gale A. Norton

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The Honorable Stephen A. Perry

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United States Senate
The Honorable Joseph I. Lieberman

Chairman, Committee on
Government Reform
U.S. House of Representatives
The Honorable Dan Burton

Mayor, District of Columbia
The Honorable Anthony A. Williams

Chairman, Council of the
District of Columbia
The Honorable Linda W. Cropp

Executive Director
Patricia E. Gallagher, AICP

IN REPLY REFER TO:
NCPC File No. Z.C. 02-01

JUN 10 2002

Zoning Commission for the
District of Columbia
2nd Floor, Suite 210 South
441 4th Street, NW
Washington, D.C. 20001

Members of the Commission:

In response to your request, the National Capital Planning Commission, at its meeting on June 6, 2002, approved the enclosed report to the Zoning Commission for the District of Columbia on the proposed text amendment to amend Title 11, DCMR Chapter 31 to establish the filing deadline of appeals to the District of Columbia Board of Zoning Adjustment in § 3112.2 of the Zoning Regulations and found that the proposal would not affect the federal interests nor be inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital.

Sincerely,

Patricia E. Gallagher, AICP
Executive Director

Enclosure

ZONING COMMISSION
District of Columbia
CASE NO.02-01
EXHIBIT NO.9

NCPC File No. ZC-02-01

NCPC
NATIONAL CAPITAL PLANNING COMMISSION

ZONING TEXT AMENDMENT ESTABLISHING THE FILING DEADLINE TO THE BOARD OF ZONING ADJUSTMENT

Report to the Zoning Commission of the District of Columbia

June 6, 2002

Abstract

The Zoning Commission has taken a proposed action to amend Title 11, DCMR Chapter 31 to establish the filing deadline of appeals to the District of Columbia Board of Zoning Adjustment in §3112.2 of the Zoning Regulations. The new language will set specific time standards by which an appeal of a zoning administrator's decision can be properly filed before the Board of Zoning Adjustment.

Federal Interests

The federal interest in this case is the referral agency status that NCPC possesses within certain special exception filings before the Board of Zoning Adjustments (BZA). For example, any special exception request in the Naval Observatory Precinct District must be referred to NCPC for review and comment. It is important that NCPC remain an active review agency in appropriate Board of Zoning Adjustment processes and any alteration to those processes should be evaluated for its impact on NCPC's plan review ability.

Authority

Section 8 of the Planning Act of 1952, as amended (40 U.S.C. 71g), and D.C. Code, sec. 5-417.

Commission Action

The Commission finds that the proposed text amendment to amend Title 11, DCMR Chapter 31 to establish the filing deadline of appeals to the District of Columbia Board of Zoning Adjustment in §3112.2 of the Zoning Regulations would not adversely affect the federal interests nor be inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital.

* * *

BACKGROUND AND STAFF EVALUATION

DESCRIPTION OF THE PROPOSAL

The District of Columbia Zoning Commission has referred the zoning text amendment to the Commission for federal interest review and comment. NCPC's role is to review and comment on the proposed amendment considering whether it has an adverse affect on the federal interest.

The proposed text amendment clarifies the timeframe for an appeal to the District of Columbia Board of Zoning Adjustment for those who have claims of aggrievement by any District official, including the Mayor, in the administration of the Zoning Regulations. The current regulations simply state that an appeal must be "timely" in its filing, which creates some ambiguity in the appeal process. This text amendment seeks to establish a defined time parameter in the filing process. Specifically, the new language will set the following time related standards (text in quotations is select language taken verbatim from the amendment):

"*An appeal shall be filed within sixty (60) days from the date the person appealing the administrative decision had notice or knowledge of the decision complained of, or reasonably should have had notice or known of the decision complained of, whichever is earlier*"

- This essentially means that an appellant will have 60 days to file the proper appeal to the BZA. This 60 day timeframe will begin from the date in which the appellant had notice or knowledge of the disputed administrative decision or reasonably should have had notice or known of the decision.

"*If the decision complained of involves the erection, construction, reconstruction, conversion, or alteration of a structure or part thereof, no appeal shall be filed later than ten (10) days after the date on which the structure or part thereof in questions is under roof*"

- If the appeal is dealing with a specific structure, an appeal will have to be filed within ten days from when the structure is under roof. The language then proceeds to clarify that "under roof" means completion of a structure when the main roof and its components are in place.

- Additionally, the BZA will have the authority to extend the 60-day time requirement for an appeal only if the applicant has demonstrated exceptional circumstances and that the extension will not prejudice the parties to the appeal.

A copy of the Zoning Commission Order, which contains the exact language, is an attachment to this report.

PUBLIC PARTICIPATION

A public hearing was held by the District of Columbia Zoning Commission on April 11, 2002 to obtain public input on the proposed text amendment. As it is a general text amendment that affects Zoning Regulations which apply District wide, no specific Advisory Neighborhood Commission (ANC) report was required.

OFFICE OF PLANNING REPORT

The District of Columbia Office of Planning has not issued a report on this text amendment. This effort originated from the District of Columbia Office of Corporation Counsel, which drafted and proposed the regulations to the Zoning Commission. The Office of Planning was not an official agency participating in the formulation and implementation of the amendment.

FEDERAL INTEREST EVALUATION

The relevant federal interest in this case is the referral agency status that NCPC possesses within certain special exception filings before the Board of Zoning Adjustments (BZA). This new language and the timeframe it establishes is a text adjustment to the Board of Zoning Adjustment process that does not alter, limit or negatively affect NCPC's plan review capability. Therefore staff concludes that the text amendment does not adversely affect the federal establishment or identified federal interests nor is it inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital.

CONFORMANCE WITH THE COMPREHENSIVE PLAN

The proposed action addresses policies and procedures established in the District of Columbia Zoning Regulations and do not conflict with any federal interests or goals for the federal establishment. Therefore, the proposed text amendment would not be inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital.