

3266 Worthington St., NW
Washington, DC 20015
September 24, 2015

Chairman Anthony Hood
District of Columbia Zoning Commission
441 Fourth Street, NW, Suite 200-S
Washington, DC 20001

Re: ZRR - Case No. 08-06A - Proposed Title 11 DCMR – Zoning

Dear Chairman Hood:

I have deep concerns about the ZRR with regard to both process and content. The Zoning Regulations Review has been rewritten largely without true community engagement and buy-in; and that lack manifests itself in the content of the code, which is not aligned with widely held community values.

Process Most residents and taxpayers in D.C., if they even know that an overhaul of the zoning code is in the works, have little idea of the result. At 966 pages, the Zoning Regulations Review is more complicated and disorganized than the current code, and hundreds of pages longer than the code it was meant to simplify. Reading the ZRR requires a familiarity with zoning conventions and terminology, and a commitment to studying government documents that most people cannot muster.

Yet OP has not done vigorous outreach to counter this problem. The Zoning Commission has extended the public comment period multiple times, but where is OP's proactive, good-faith effort to educate us? OP took its show on the road when it sought support for amending the Height of Buildings Act, but it has not attempted to win support for the ZRR. If the changes are necessary, and the impact will be to improve life in the city, why hasn't OP broadcast the good news? Perhaps OP would like to avoid the kind of public uproar that greeted then-Director Harriet Tregoning's attempt to lift the Height Act. Reducing parking minimums, allowing matter-of-right outbuilding conversions for residential use, and creation of "corner stores" are pretty much the only features of the ZRR that have been publicized. Do Washingtonians know how these controversies were resolved? I wonder whether the strategy this time is to keep OP's handiwork rather obscure—including raising the height limit of buildings 40 feet as a matter of right in the expanded Downtown—to all but developers and their land-use lawyers.

We know that developers and their lawyers have made their wishes known to the planning agency. With regard to residents weighing in, some ANC commissioners have led residents in study groups and those ANCs have submitted comments; and several eagle-eye members of the Committee of 100 have provided the Zoning Commission with rigorous analyses—but where is the input to the public record by the scores of social justice and advocacy organizations who regularly testify to the D.C. Council? I know from communicating with many that they do not feel they have the skills to penetrate the zoning regulations, and so their voices--and those of the vulnerable people they represent!--are absent from the public record.

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As far as I can tell, a couple of ANCs received customized “Summary Comparison of Existing and Proposed Zoning Regulations” matrixes (I’m not counting ANC 4C, which just received theirs last Monday afternoon, upon filing a comment to the ZC requesting it). There are 41 ANCs in the District of Columbia. All ANCs should receive equal treatment as a matter of course.

But even if every commissioner had received a matrix to study, that would not have been enough to enable people to understand what the impact of the changes in the code will be on their environments. Residents need to be educated about what changes are in store for their neighborhoods; and, at a minimum, what is planned for the new Downtown, which most of us interact with in one way or another. People cannot weigh in if they do not understand the **intent** and the **expected results** of changes wrought by the ZRR.

Neighborhoods and residents for whom English is not a first language are particularly ill-served by the passivity of OP. Alan Bergstein, chief, Land Use and Public Works, from the Office of the Attorney General, stated during the ZC meeting last Monday, September 21, that OP has no legal obligation to translate the ZRR into languages other than English. At the same meeting, Deputy Director, Development Review and Historic Preservation, Jennifer Steingasser advised the Commissioners that OP had held 16 community meetings where it distributed a two-page fact sheet (about the 966-page ZRR) in several languages. I would argue that neither response meets the requirements of D.C.’s Language Access Act of 2004, amended in 2014, which states:

1205.1 Pursuant to Section 2(2) of the Act, all District government agencies, departments, or programs that furnish information or render services, programs, or activities directly to the public or that contract with other entities, either directly or indirectly, to conduct programs, services or activities to the public are covered entities.

1205.2 Each covered entity shall provide written translation of vital documents into any non-English language spoken by a limited-English proficient or non-English proficient (“LEP/NEP”) population that constitutes 3% or 500 individuals, whichever is less, of the population served or encountered, or likely to be encountered, by the covered entity.

1205.4 The covered entity shall ensure that all vital documents that are translated into a non-English language spoken by a LEP/NEP population are widely distributed within the agency, accessible at points of entry, and available online, to the extent that the same vital documents in the English language are widely distributed within the agency, accessible at points of entry, or available online.

1206.2 Covered entities with major public contact are:

- (a) The agencies listed in Section 2(3)(B) of the Act, which are as follows:
 . . . Office of Planning . . .

Inasmuch as the Office of Planning is a covered entity; the ZRR is one of two primary products of the Office of Planning (the other being the present code); and the ZRR is online in English—the law requires that the ZRR should be equally available in other major languages used by residents of this city. (Even if translation were not legally mandated, good-government ethics demand it.)

Content The Zoning Regulations Review was initiated by the 2006 Comprehensive Plan, a citizen-driven roadmap to expressing community goals through the built environment. The Comp Plan was drawn up with tremendous community input over several years. The Comp Plan

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instructs the Office of Planning to bring the zoning code into alignment with the Plan, and to make the code a simpler, more straightforward document comprehensible to citizens. I've already addressed the thicket that is the ZRR.

But OP has careened off in an independent direction in terms of content as well. Tellingly, OP is now talking about amending the Comprehensive Plan to match the ZRR it has created. This is an abrogation of the Comprehensive Plan and self-government in D.C.

As Jane Jacobs pointed out in her 1961 urban-planning classic, *The Death and Life of Great American Cities*, the all-at-once rebuilding of neighborhoods naturally eliminates both affordable housing and small businesses, because the costs of new construction require top dollar from tenants. Has the Commission considered that wherever the ZRR encourages developers to build dramatically denser, it ensures the destruction of smaller/older/cheaper buildings that are home to low- and moderate-income residents and small businesses? That promoting tear-downs amounts to slow-motion, old-fashioned urban renewal under another name (smart growth)?

Along these lines, the ZRR does not align with the stated values of our city in two particulars. First, it is not aligned with the order devised by OP and passed by the ZC just a few months ago in ZC case no. 14-11, in response to popular demand for protection from overbuilding for R-4 rowhouse neighborhoods. The Commission should incorporate all of the elements of its 14-11 order (now a part of the existing zoning regulations) into the final order on ZRR at every point where the ZRR order deals with the successor zones to R-4, that is: RF-1, -2 and -3.

Second, the ZRR has nearly tripled the size of Downtown and in doing so, has created "D" zones whose purpose is to introduce residential development in areas currently dominated by commercial uses. This is a good thing, because separating uses leads to lifeless neighborhoods. But in its un-nuanced lifting of height limits throughout all D zones, the ZRR promotes the loss of older/smaller/cheaper buildings, and at the very same time continues to exempt the vast majority of Downtown from the Inclusionary Zoning requirement. Worse yet, in the 2 or 3 zones (out of 11) where IZ applies, the ZRR rules out units for low-income residents. These provisions fly in the face of a central goal of the Comprehensive Plan, reiterated by residents and politicians alike, for Washington to become a more inclusive and diverse city in every neighborhood.

To summarize, I ask the Zoning Commission to incorporate into the ZRR the changes in content described in the two preceding paragraphs. I further ask that the ZRR be held in abeyance until vigorous, proactive, good-faith educational outreach has been conducted citywide in English and (at least) Spanish. OP must share the rationale for changes codified in the ZRR and provide proof of the congruency of each change with the Comprehensive Plan. Following comment and review periods, to go into effect, the ZRR must win approval by a super-majority of ANCs.

Sincerely,



Andrea Rosen
Ward 4

cc: D.C. Council Chair Phil Mendelson; D.C. Attorney General Karl Racine; OP Deputy Director Jennifer Steingasser