

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF LIMITED PUBLIC HEARING
September 8, 2014

**CASE NO. 08 06A (Alternative Language to Certain Advertised Text –
Title 11, Zoning Regulations – Comprehensive Text Revisions**

Alma Hardy Gates
Neighbors United Trust

Good Evening Members of the Zoning Commission. We've shared many evenings on the ZRR and text amendments, which continue to evolve into social engineering policies and promotion of an ideology, rather than a review of current zoning regulations. I'm uncomfortable that the public review period is coming to closure without benefit of a completed draft. The public has no clear idea how this document will look when all the pieces are finally assembled; and frankly, I'm not sure the Zoning Commission does either. The text revisions that are the subject of tonight's hearing are out of context with their Subtitles as well as the entire ZRR. And, in addition to the ZRR, the OP cornucopia continues to spill forth new text amendments including the recently proposed penthouse text, (Case No. 14-13) which would have significant impact on every zone and every neighborhood, and as such, should be considered in the context of the ZRR.

The Commission should carefully review the ZRR testimony delivered last Tuesday evening by residents living in the East End of the city. They told a story about a quadrant of the city that is about to undergo significant change. They warned of gentrification, lack of affordability and that the city lacks a transportation system that supports their needs. They warned that what is being proposed will have serious consequences for them and further impact their quality of life.

Five questions, which are presented here and at the beginning of previously submitted comments remain unanswered. A response from the Zoning Commission would be appreciated.

When did the Zoning Regulation Review become Comprehensive Text Revisions as noted in the hearing announcement?

Does the limited scope of this hearing imply that other text, reviewed prior to September 8, has been approved?

When would the public have an opportunity to review the full body of proposed text; and, would there be opportunity for additional comment?

Will the Zoning Commission actually review the "Record," which closes on September 15, or has OP been assigned that responsibility?

Is the Zoning Commission making sure that what is being proposed is not inconsistent with the Comprehensive Plan, given the amendment cycle has not begun?

There are some additions to three Subtitles which were also addressed in the previously submitted testimony. This is in addition to, not instead of, that testimony.

SUBTITLE B: DEFINITIONS

On December 28, 2013, a letter suggesting the need for a definition of the term "abut" was submitted to the record, Subtitle B, Definitions (attached). However, a definition has not been included in the revised definitions, although the term was significant enough to be a focus in BZA cases 18474 and 18669

OP is correct that clarification is needed for the definition of "Zoning Administrator." Also, it would be useful to have the OAG provide additional guidance on the authority of the Zoning Administrator as it pertains to interpretation of the zoning regulations.

SUBTITLE C: GREEN AREA RATIO

This past weekend the National Triathlon was short-circuited by a sewage spill into the Potomac River, which cancelled the swimming competition. While GAR doesn't apply to the residential zones, which feed this sewer outlet, they are the source of the sewage spill. Two new multi-acre housing developments and large additions on the campuses of Georgetown, American, and George Washington Universities do appear to have had impact on the area's infrastructure. Here is an example of what is meant by the statement — if not over developed and allowed to act as a natural filtration system, the urban landscape can be a Green Filter, filtering pollution as stormwater slowly sinks in to the ground. Instead, the

Potomac overflow illustrates that large areas of the city act as gray funnels that allow pollutants and toxins to be washed into local rivers and the Chesapeake Bay. There is little undeveloped urban landscape left in the city to perform the required hydrologic cleansing necessary to meet that goal. Has the Commission considered how the tripling of downtown will affect the urban environment? If this new set of environmental regulations is to prove effective, it must contain provisions that ensure delivery of intended outcomes, and a means to weigh the relationship between cause and effect. Currently the GAR contains “an ounce of prevention” but lacks the metrics necessary to measure infrastructure capacity and ensure future Potomac sewage spills don’t occur.

SUBTITLE D: ACCESSORY APARTMENTS

The proposal to eliminate minimum lot sizes (1606.4) because the requirement is too restrictive is a step in the wrong direction. Given that some lots in low density residential zones do not meet zone standards is no reason to give all substandard lots a blank development check. This proposal also appears to be the prelude to lot subdivision for external accessory units, which is further indicated by the use of the term “property” instead of “lot.”¹ This proposed change has the potential for real unintended consequences. Current minimum lot standard requirements should be maintained consistently throughout all Subtitles of the proposed zoning regulations.

CONCLUSION

The public process appears to be drawing to a close. Although we have been working on the ZRR for over six years, PLEASE, don’t slam the door in the public’s face when the record closes on September 15. A complete draft of revised text is not yet available for public review.

¹ The Proposed Definitions – September 9, 2013, Section 100.1 © The word “lot” shall include the words “plot” and “parcel,”

**4911 Ashby Street, NW
Washington, DC 20007**

December 28, 2013

Zoning Commission for
the District of Columbia
441 4th Street, NW
Suite 220-S
Washington, DC 20001

RE: Zoning Commission Case No. 08-06
Subtitle B: Definitions

Members of the Zoning Commission

The term “Abut” is used frequently throughout the current zoning regulations. It is a term that is not included in the definitions; however, its intent has been to express a particular relationship between two properties, objects or property owners. Two recent BZA Cases, No. 18474 (Wagtime) and No. 18669 (Diva Dogs), have brought into focus the importance of the term “Abut,” the need for clarity and perhaps a formal definition prior to approval of the Zoning Regulation Revision (ZRR).

Both of the aforementioned cases involved applications for dog boarding facilities and their relationship to nearby residential properties. When attempting to assess the impact on nearby residences, the BZA was confronted with the fact there is no definition for the term “Abut” other than that found in Webster’s Dictionary. Both the Zoning Administrator and Steven Sher of Holland and Knight offered definitions, but these were subjective interpretations, and neither party, nor the BZA turned to Webster’s for clarity of its meaning.

In the cases cited, Section 735 Animal Boarding (C-2) permits animal boarding by special exception but is clear that the use *shall not abut a Residence Zone*; and, external yards or other external facilities for the keeping of animals shall not be permitted (Emphasis Added).

The term “Abut” that requires the attention of the Zoning Commission prior to ZRR approval. What definition will be provided in the ZRR and how will the term to be applied? Without answers, there is no clarity and little protection for residential zone districts when they share a common line of demarcation with a commercial zone district. Both of the cases noted support the contention that this term is in need of a definition prior to approval of the ZRR.

Also of concern is the ability of the Zoning Administrator to provide an interpretation of a zoning term in a single case that has the potential to change the intent of existing zoning regulations. Because the Diva Dogs case has not been decided, it will not be discussed further, but members of the Zoning Commission are strongly encouraged to review the video of BZA Case No. 18669 and the interpretation of the Zoning Administrator on the meaning of the term “abutting” districts

Webster’s Dictionary offers two definitions for “abut.”

1. To touch along a border or with a projecting part;
2. a. To terminate at a point of contact;
b. To lean for support.

To border on: Touch

Please include this letter in the ZRR record file under Subtitle B, Definitions

Thank you for the opportunity to bring this matter to your attention for consideration as a needed ZRR definition.

Wishing you a very Happy New Year!

Sincerely,



Alma H. Gates

cc: Matthew Legrant (by email)