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Executive Director
Marcel C. Acosta

IN REPLY REFER TO:
NCPC File No. Z.C. 09-13

FEB 17 2010

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

Members of the Commission:

Pursuant to delegations of authority adopted by the Commission on, August 6, 1999, I found that the proposed text amendment to explicitly allow for a Board of Zoning Adjustment consent calendar would not be inconsistent with the Comprehensive Plan, nor would it adversely affect any other identified federal interests. A copy of the Delegated Action of the Executive Director is enclosed.

Sincerely,

Marcel C. Acosta
Executive Director

Enclosure

cc: Harriet Tregoning, Director, D.C. Office of Planning
Anthony Hood, Chairman, Zoning Commission

ZONING COMMISSION
District of Columbia

CASE NO. 09-13

EXHIBIT NO. 20
ZONING COMMISSION
District of Columbia
CASE NO. 09-13
EXHIBIT NO. 20

**TEXT AMENDMENT TO EXPLICITLY ALLOW FOR A BOARD OF ZONING
ADJUSTMENT EXPEDITED REVIEW CALENDAR**

Referred by the Zoning Commission of the District of Columbia

Delegated Action of the Executive Director

JAN 28 2010

Pursuant to delegations of authority adopted by the Commission on August 6, 1999, 40 U.S.C. §8724(a), and DC Code §2-1006(a), I find that the proposed text amendment to explicitly allow for a Board of Zoning Adjustment consent calendar would not be inconsistent with the Comprehensive Plan for the National Capital, nor would it adversely affect any other federal interests.

* * *

The Zoning Commission of the District of Columbia has taken a proposed action to approve a text amendment to explicitly allow for a Board of Zoning Adjustment (BZA) expedited review calendar. The text amendment would add a new section to Chapter 31 of the District of Columbia Zoning Regulations that contains the BZA rules of practice and procedure. The purpose of this section is to create an expedited review process to allow the BZA, subject to certain conditions, to make decisions on certain types of cases without holding a public hearing. The text amendment, as proposed, is limited to specified types of special exceptions. According to its report dated July 17, 2009, the District of Columbia Office of Planning (OP) reviewed the list of special exceptions listed in Chapter 32 of the zoning regulations for types of cases that would appear to have a low probability of controversy and recommended that “the consent calendar opportunity be limited to special exception relief under Section 223 and under Section 209.1.” Section 223 governs additions to one- and two-family dwellings, and new or expanded accessory buildings; Section 209.1 governs parks, playgrounds, swimming pools, or athletic fields operated by a local community organization. Furthermore, the OP report states “any consent calendar case that elicits concern or opposition from a BZA member, ANC, member of the public, or District agency would be removed from the consent calendar and scheduled for a public hearing.”

The proposed text amendment is as follows:

Section 3113, PRE-HEARING PROCEDURES FOR APPLICATIONS, subsection 3113.1 is amended by adding the new language shown in bold and underlined below.

3113.1 The rules of procedure in this section apply to all applications filed with the Board (including applications filed pursuant to §§ 3107 and 3108 in effect prior to October 1, 1999, and §§ 3103 and 3104); provided, however, the provisions of this section only apply to chancery applications to the extent specified in § 3134 **and to applications processed under the expedited review procedures to the extent specified in § 3118.**

A new section 3118, EXPEDITED REVIEW, is added to read as follows:

3118 EXPEDITED REVIEW

3118.1 The purpose of this section is to create an expedited review process to be followed after an applicant waives their right to a hearing for an eligible application.

3118.2 An eligible application is an application for:

- (a) An addition to a one-family dwelling or flat or a new or enlarged accessory structure pursuant to § 223; or
- (b) A park, playground, swimming pool, or athletic field pursuant to § 209.1.

3118.3 Subject to the removal process described in §§ 3118.5 and 3118.6, an eligible application that includes a waiver of hearing will be placed on an expedited review calendar and decided without hearing at the Board's next regularly scheduled session after:

- (a) The completion of the public notice procedures set forth in § 3118.4; and
- (b) The completion of the ANC review period of thirty days from the date it receives notice of the application, excluding Saturday, Sundays, and holidays, plus an additional fourteen calendar days.

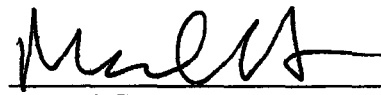
3118.4 Notice of expedited review shall be given in the same manner and include the same information as required by §§ 3113.12 through 3113.16, except that references to "public hearing" or "hearing" shall mean "expedited review" and all other requirements of § 3113 shall apply with the same proviso.

3118.5 The public notice of an expedited review and the ANC notice of an application requesting expedited review shall also describe:

- (a) The procedure for requesting the removal of the application from the expedited review calendar as described §§ 3118.5 and 3118.6.; and
- (b) That the only public notice of the hearing date for a removed application will be the posting of that date in the Office of Zoning beginning on the date that the application was removed and continuing until the date of such hearing.

- 3118.6 An application tentatively placed on an expedited review calendar shall be removed and rescheduled for a hearing:
- (a) At the oral or written request of a Board member made at any time prior to the vote on the application;
 - (b) Upon the receipt of a timely filed request for party status in opposition to the application; or
 - (c) At the written request of the following persons or entities, if filed with the Office of Zoning no later than fourteen days prior to the date that the expedited review is scheduled:
 - (i) The Office of Planning;
 - (ii) The affected ANC(s) or affected Single Member District(s);
 - (iii) The Councilmember representing the area in which the subject property is located or representing an area located within two-hundred feet (200 ft.) of the subject property; or
 - (iv) The owner or occupant of any property located within that same proximity;
- 3118.7 A request to remove made pursuant to § 3118.6 (c) (ii) through (iv) shall be accompanied by a statement indicating that the requester, or the requester's representative, intends to appear as a witness at the hearing and shall also include a summary of the testimony to be given at that time.
- 3118.8 The Chair may deny a request to remove an application if the proffered testimony is irrelevant.
- 3118.9 Orders granting an application approved by expedited review need not contain findings of facts or conclusions of law, but shall reflect the nature of the relief granted and any conditions imposed.

The proposed text amendment to amend Section 3113.1 and add a new Section 3118 to the District of Columbia Zoning Regulations in order to explicitly allow for a BZA expedited review calendar would not be inconsistent with the Comprehensive Plan for the National Capital, nor would it adversely affect any other identified federal interests.


 Marcel C. Acosta
 Executive Director