

April 11, 2016

2016 APR 11 PM 3:35

TO: Zoning Commission
FR: Denis Suski (for Residents of Lanier Heights) and Alan Gambrell (ANC1C)
RE: 15-09 – April 6, 2016 Supplemental Memo for Proposed Accompanying Text Amendment

Issue

The Office of Planning (OP) issued an April 6, 2016 memo for 15-09, specific to interpretation of §3202.5, concerning handling of building permits submitted during the time when a zone district amendment is under consideration. OP's memo reads, in part:

"OP recommended a text amendment intended to render existing apartment buildings conforming, as well as apartment buildings for which a building permit was applied for prior to setback, which would otherwise be considered nonconforming under the proposed R-4 zone.

It has come to OP's attention that conflicting interpretations exist [emphasis added] for §3202.5, which governs building permits submitted in an area considered for a rezoning, and which may impact the proposed text amendment."

OP concludes by recommending text amendment language regarding §3202.5(a).

Recommendation

We believe that the Zoning Commission should not develop an interpretation of §3202.5(a) and that the language in §3202.5(a) provides sufficient guidance, as written. Specific reasons are outlined below.

Rationale

- The zoning provision §3202.5(a) appears to be clear as written.
- Revisions to §3202.5(a) should not be undertaken by emergency order. Rather, such changes should only be undertaken under established procedures as outlined in §3010, which would afford an appropriate forum for fully discussing any cases of "conflicting interpretations." The amendment proposed by OP would appear to relieve a prospective developer who wishes to beat the deadline for applicability of new zoning from any responsibility to see that his or her initial application is fully developed and code-compliant, inasmuch as the amended §3201.5(a) would allow any deficiency, whether with respect to "structural, mechanical, building code, or other similar issues" or zoning, to be corrected after the fact. This would represent a significant and we believe undesirable policy change on the part of the Commission.
- The proposed OP language conflicts with current DCRA interpretation of §3202.5(a). Specifically, in March 2016, DCRA notified a developer of properties in Lanier Heights that those properties needed to comply with R-4 provisions "because the applications were not sufficiently complete to allow processing without substantial deviations."

Comments on 15-09 Supplemental Memo for Proposed Text Amendment

ZONING COMMISSION
District of Columbia
CASE NO. 15-09
EXHIBIT NO. 130A
ZONING COMMISSION
District of Columbia
CASE NO. 15-09
EXHIBIT NO. 130A