

**MEMORANDUM**

TO: Zoning Commission for the District of Columbia

FROM: Jennifer Steingasser, Deputy Director for Development Review & Historical Preservation

DATE: May 17, 2010

SUBJECT: Zoning Commission Case No. 10-04, Proposed Text Amendments to the Notification Requirements for Pending Zoning Applications under Chapters 30 and 31 of the Zoning Regulations

I. RECOMMENDATION

The Office of Planning (OP) recommends that the Zoning Commission approve the proposed text amendments to Chapters 30 and 31 that would:

- allow Advisory Neighborhood Commissions (ANC), individual ANC Commissioners and the Office of Neighborhood Commissions the option to receive any official notice required by D.C. Official Code § 1-309.10 (c)(4) by first-class or electronic mail; and
- clarify that receipt of a notice of application by first-class or electronic mail starts the time period for an ANC to review a pending zoning application and to submit a written report to the reviewing body.

Final proposed amendment text is provided in Exhibit 1.

II. BACKGROUND

The Office of Zoning (OZ), the applicant, is requesting amendments to the Zoning Regulations, to permit notification of ANCs, individual ANC Commissioners and the Office of Neighborhood Commissions about pending zoning applications by electronic mail, if the recipient agrees to this procedural change in writing. Current regulations require that such notifications be sent by first-class mail.

This notification option is proposed as part of an OZ initiative to further improve its services. It would bring the Zoning Regulations into conformance with the requirements of Section 13(c) of the Advisory Neighborhood Commission Act of 1975, effective March 26, 1976 (D.C. Law 1-58; D.C. Official Code § 1-309.10 (c)), as amended by the District Council under the Expedited Advisory Neighborhood Commissions Notification Act of 2009 (Subtitle B under Title II of D.C. Law 18-0111, effective March 3, 2010). It would also be consistent with options currently available for serving papers associated with zoning applications on parties or their representatives under §§ 3003.3 and 3111.3.

The proposed text would also make clear that the time period for an ANC to review and to submit its report on a pending application begins when the notice of application is received.



During its public meeting on March 10, 2010, the Commission requested text revisions to clarify OZ's intent. Final revised text subsequently appeared in the Zoning Commission Notice of Public Hearing (refer to Exhibit 1).

No changes to any other ANC or public notice procedures are proposed.

III. COMPREHENSIVE PLAN

The proposal is considered not inconsistent with the 2006 Comprehensive Plan. It would advance the following Plan policy that encourages utilization of the latest communication technologies in the public planning process.

- Implementation Element IM-1.5 - Public Input:
“The District of Columbia is committed to public involvement in local government affairs, particularly those relating to land use decisions. The District has one of the most extensive networks of citizen and civic organizations, neighborhood organizations, advocacy groups and special interest groups in the country. Its 37 Advisory Neighborhood Commissions (ANCs) provide a unique forum for seeking local input and expressing priorities on a range of land use issues. The Zoning Commission, Board of Zoning Adjustment, and the Council itself provide formalized opportunities for public discourse on land use matters. The advent of the Internet, e-mail, streaming video, and other technologies have made information instantly accessible to thousands of residents, enabling unprecedented levels of participation in community meetings, summits, and forums (2507.1).”

IV. CONCLUSION

The Office of Planning recommends that the Zoning Commission approve the proposed text amendments as advertised.

Attachment: Exhibit 1 Final Proposed Text Amendments to Chapters 30 and 31

JS/afj

**FINAL PROPOSED TEXT AMENDMENTS
TO CHAPTERS 30 & 31**

The following amendments to Title 11 of the District of Columbia Municipal Regulations (ZONING) are proposed:

- A. Amend Chapter 30, ZONING COMMISSION PROCEDURES RULES OF PRACTICE AND PROCEDURE, by adding a new § 3007 to read as follows:
- 3007 NOTICES TO ADVISORY NEIGHBORHOOD COMMISSIONS
- 3007.1 Any notice required by D.C. Official Code § 1-309.10(c)(4) to be provided to affected Advisory Neighborhood Commissions, the Commissioner representing the affected single member district, and the Office of Advisory Neighborhood Commissions ("notice recipients") may be provided by electronic or first-class mail; provided, that the notice shall be by first-class mail unless a notice recipient agrees in writing to receive future notifications through electronic mail.
- 3007.2 A notice of application shall constitute the notice required by D.C. Official Code § 1-309.10(b) and starts the time period for the affected Commission to review the application and submit its written report pursuant to D.C. Official Code § 1-309.10 (d).
- B. Amend Chapter 31, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE, § 3115 ADVISORY NEIGHBORHOOD COMMISSIONS, as follows:
- (a) By adding the phrase, ": REPORTS AND NOTICE" to its title so that it reads "ADVISORY NEIGHBORHOOD COMMISSIONS: REPORTS AND NOTICE"; and
- (b) By inserting the phrase "prepared in response to a notice of application provided pursuant to § 3115.5:" into the introductory text of § 3115.1, so that the provision will read:
- 3115 ADVISORY NEIGHBORHOOD COMMISSIONS: REPORTS AND NOTICE
- 3115.1 The written report of the ANC prepared in response to a notice of application provided pursuant to § 3115.5 shall be submitted to the Board at least seven (7) day in advance of the hearing and shall contain the following information:
- (a) An identification of the appeal or application;
 - (b) When the public meeting of the ANC to consider the appeal or application was held;
 - (c) Whether proper notice of that meeting was given by the ANC;
 - (d) The number of members of the ANC that constitute a quorum and the number of members present at the meeting;
 - (e) The issues and concerns of the ANC about the appeal or application as related to the standards of the Zoning Regulations against which the appeal or application must be judged;
 - (f) The recommendation, if any, of the ANC as to the disposition of the appeal or application;

- (g) The vote on the motion to adopt the report to the Board;
- (h) The name of the person authorized by the ANC to present the report; and
- (i) The signature of the ANC chairperson or vice-chairperson.

(c) By adding new §§ 3115.4 and 3115.5 to read as follows:

- 3115.4 Any notice required by D.C. Official Code § 1-309.10 (c)(4) to be provided to affected Advisory Neighborhood Commissions, the Commissioner representing the affected single member district, and the Office of Advisory Neighborhood Commissions ("notice recipients") may be provided by electronic or first-class mail; provided, that the notice shall be by first-class mail unless a notice recipient agrees in writing to receive future notifications through electronic mail.
- 3115.5 A notice of an application shall constitute the notice required by D.C. Official Code § 1-309.10 (b) and starts the time period for the affected Commission to review the application and submit its written report pursuant to D.C. Official Code §1-309.10 (d).