

February 10, 2003

Testimony of
Zoning Subcommittee, Committee of 100 on the Federal City

I am pleased today to represent the Committee of 100 on the Federal City, the oldest citizens' planning organization in the District; I am both the Zoning Subcommittee chair. Thank you for the opportunity to testify this afternoon about one of the real successes in District government.

When I was President of the Federation of Citizens Associations, I remember pleading on behalf of citizens organizations for a website that would allow people to access upcoming agendas for the BZA and Zoning Commission, would publish decisions in important cases, and would enable access to DCMR in some searchable mode. We didn't even dream of access to transcripts.

The Office of Zoning has delivered just such a website. The months ahead promise still more access to archival materials. It would be helpful if the Office of Planning were to publish on its website the reports it prepares and sends to the Office of Zoning. Normally one cannot even get such reports in hard copy at the Office of Zoning in the days before a case is heard, because they are filed at the very last minute. This cannot be helpful for anyone seeking to offer constructive testimony.

In some ways, however, my testimony will echo comments made last year. The Council has provided additional space for the Office of Zoning, yet it is still needed; it appears that space has been reallocated by the Administration. I don't know that the meeting room will ever be large enough for controversial cases, but it is very hard to follow such a case in the crowded facilities that exist today. Similarly, there is little space to review files either in hard copy or electronically.

We also advocated publication of Zoning Administrator decisions, which at this point are still something like truffles, to be ferreted out when one gets a scent. Doing this might add to the caseload of the Office of Zoning, as more decisions may be appealed. But surely sunshine should reach all elements of land-use decision-making. Last year we recommended that publication should be required through the D. C. Register. In the interim, we said, a complete set of rulings should be made available for review both online and in hard copies at the Zoning Administrator's office. We still think this is a constructive remedy.

On the other side of the coin, there is self-certification. We have not yet had enough experience with applicants' self-certification of compliance with land-use regulations to offer a judgment. But the regulations do not appear complete, inasmuch as there are no standards given for evaluating self-certification, the basis for challenging erroneous self-certification, and whether there are consequences for applicant errors.

The third recommendation we made was to provide independent counsel for the Office of Zoning, a difficult matter in a time of budget shortfalls. But the very integrity of this system is at the core of this recommendation. Citizens and developers alike should know that the legal basis for decisions is independent of political pressure. Certainly in light of the proposals circulating about a Planning Commission, independence is an increasingly critical quality. Can a Zoning Commission offering independent judgment about Administration proposals be dependent on attorneys who answer to the Mayor's Corporation Counsel, committed to defend such proposals?

This Office is performing very well; it will be better yet in the months ahead; it deserves support.

Barbara Zartman, Chair