Zoning 101:

Zoning Basics

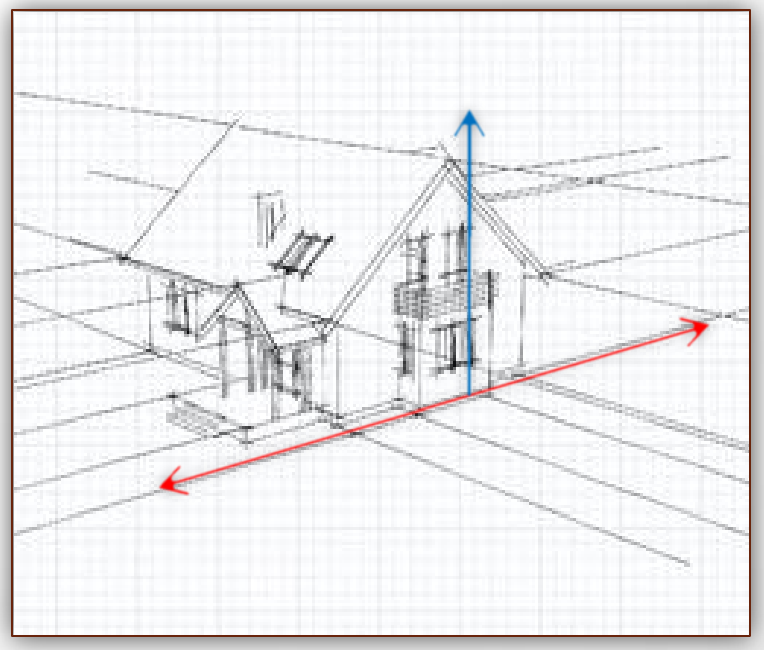
DC Office of Zoning

What is Zoning?

- DC's zoning laws tell property owners:

1. How much can be built on their property (how high, how big, how many stories, how much land can be covered); and

2. How their property may be used.



How Zoning Works

- The DC zoning laws (known as the Zoning Regulations):
  - Break the city into “Zones” or “Zone Districts”; and
  - Define what can be built and what kinds of businesses are acceptable in these Zones.
- In each Zone District, certain development is allowed *by right*.
- Other uses, however, are allowed only by special permission from the government.

Why Do We Have Zoning?

Cities use zoning to:

- Protect the look and feel of an area.
- Promote certain industries or businesses.
- Prevent overcrowding of land and over-concentration of people.
- Leave adequate light and air around property.
- Plan future development of communities.
- Protect existing businesses and residences from incompatible neighbors and other adverse impacts.
- Guide where people live and work and where businesses and industries are located, usually in accordance with a comprehensive plan.

What's Special About Zoning in D.C.?

- As the U.S. capital, a lot of land in the District is Federal-government owned.
- This Federal land does not come under the District's Zoning Regulations.
- That means that the White House, the Congress and the U.S. Capitol buildings, and the Federal parkland throughout the District are not subject to the District's zoning law.

What's Special About Zoning in D.C.?

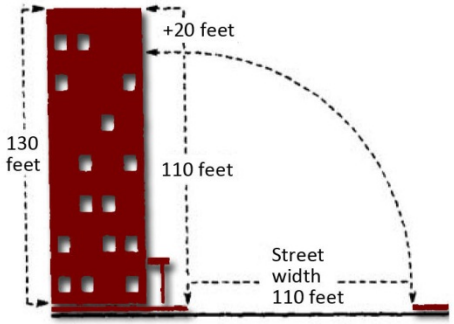
- The federally-mandated Height Act of 1910 cannot be superseded by other zoning laws.

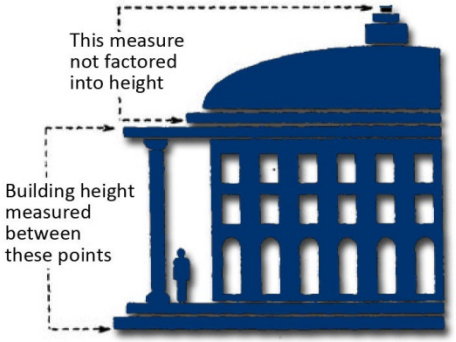
BROAD AVENUES, WIDE VISTAS, SHORT BUILDINGS

The federal Height Act of 1910 restricts a buildings height, in most instances, to the width of the street it fronts, plus 20 feet. A corner structure may use the wider of the two streets as the basis for measurement.

The act limits most buildings to 110 feet, but those on wider boulevards, such as K Stret and 13th Street, reach heights of 130 feet. Pennsylvania Avenue buildings may go as high as 160 feet.

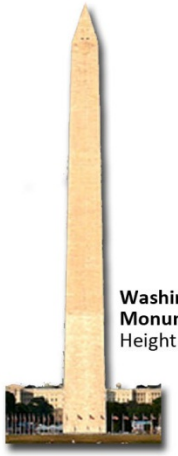
Under the act, rooftop embellishments, such as domes, spires and minarets, are not computed as part of a building's total height, which is measured from the front center of the structure.





White House
Height: 85 feet

U.S. Capitol
Height: 300 feet



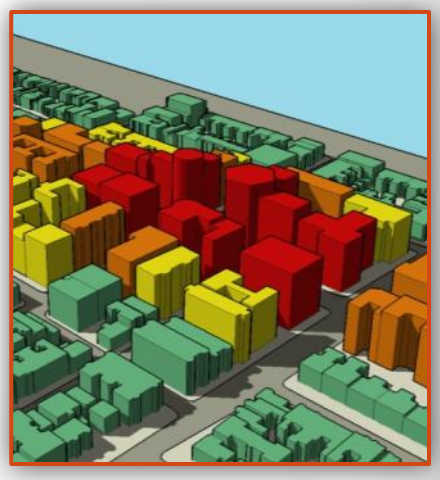
Washington Monument
Height: 555 feet

Zone Districts – What Are They?

As the Zoning Regulations specify, Zone Districts:

1. Detail what uses and what kinds of development are allowed in that area.

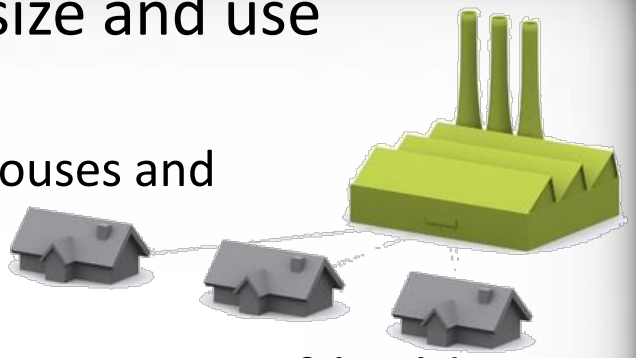
2. Tell property owners what building forms, building size, and density can be built on their property, as well as how the property may be used.



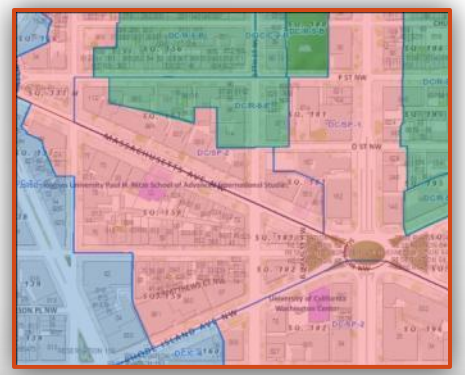
- **"<u>Density</u>"** refers to the intensity of use of a property. Higher density means a building can be built higher and cover more land and have more people using it.

Purpose of Zone Districts

- Zone Districts keep buildings of like size and use together.
  - This keeps skyscrapers from abutting row houses and factories away from where people live.



- Sometimes, going from one kind of use or type of building to another requires a transition – a way to step down from taller buildings to lower ones, or from uses that create high traffic to residential areas, which have lower traffic.



  - One example of this are Special Purpose (SP) Districts (in red) that separate certain Downtown commercial areas (in blue) and adjoining residential areas (in green).

Naming Zone Districts

- The 4 key Zone Districts are named for their *predominant use or place* — "residential" (R), "commercial" (C), "industrial"/ "manufacturing" (M), and "waterfront" (W).

- Some Zone Districts are named for their *combination of uses* and are therefore "mixed use."
  - CM (for commercial-light manufacturing); and
  - CR (for mixed commercial and residential)
    - Example: People living over a street-level storefront.

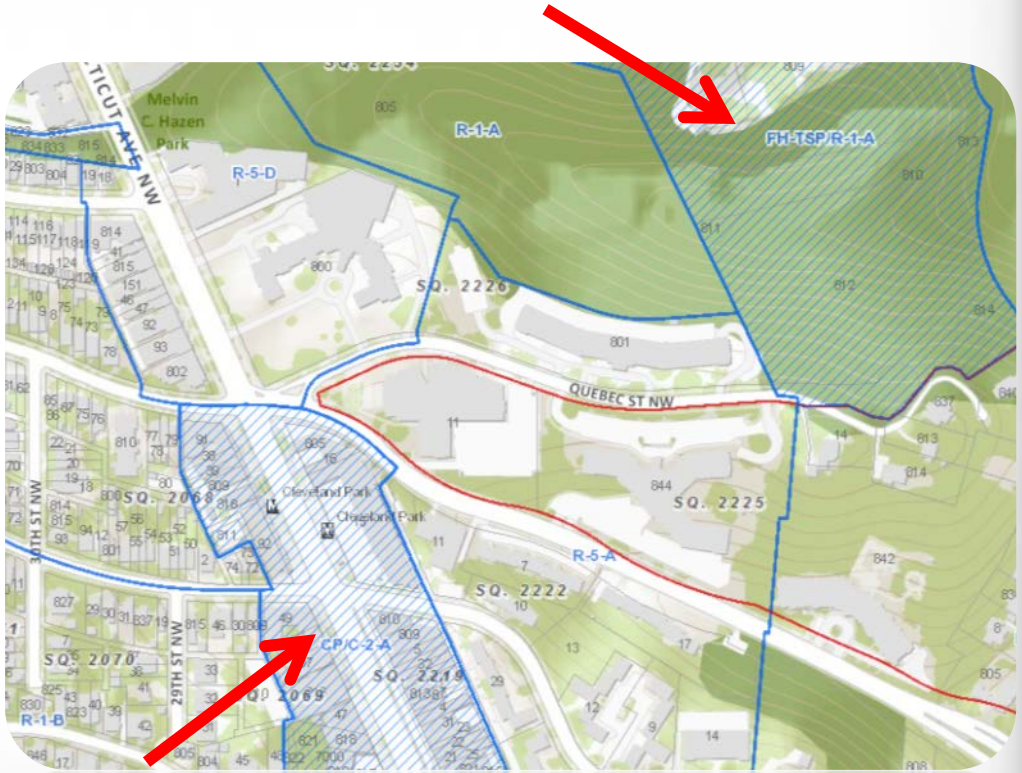
Naming Zone Districts

- The Zone Districts are detailed by their level of density and intensity of use.
- These can range from “low” to “moderate” to “high”.
- This is shown by numbers and capital letters added to the Zone District name (R-1, R-2, R-3, R-4, R-5-A, and R-5-B.)
- As the numbers and capital letters go up, the impacts become more intense. That is, the buildings tend to go higher and cover more land and have more people using them.
  - ***Example:*** *An R-5-B Zone District – which has apartment buildings – has a much higher density than an R-1 Zone District – which has single family detached houses.*

Overlays

- **What are they?** Overlays are rules that add more restrictions in use and development size in addition to the underlying Zone District.

- **Why do we have them?** Overlays address specific development concerns, such as increasing shopping opportunities or protecting trees.



Overlays - Examples

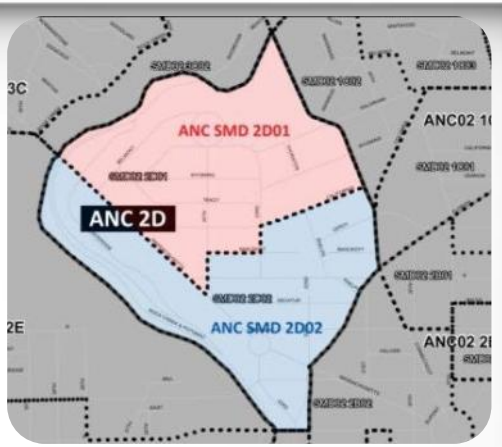
- **<u>Neighborhood-commercial defined overlays</u>**: The Cleveland Park (CP) and Eighth Street (ES) Southeast Neighborhood Commercial Overlays limit bars and restaurants to leave space for other kinds of neighborhood-serving businesses that those communities want, like clothing and hardware stores and art galleries.

Overlays - Examples

- **<u>Miscellaneous overlay districts serve other public policy goals and objectives:</u>** The Tree and Slope Protection Overlay (TSP) helps preserve and enhance the park-like setting of designated neighborhoods next to streams or parks. To do this, the TSP Overlay restricts landowners from altering or disturbing the land, destroying or removing trees, and changing the ground cover in a way that prevents water from being absorbed and overflowing.

Players in the Zoning Process

- **Advisory Neighborhood Commissions (ANCs)** are comprised of officials elected by their neighbors to provide formal citizen participation and review at the neighborhood level. Each Commissioner represents approximately 2,000 residents. Currently, there are 286 ANCs.



- **The Office of Planning (OP)** is the central planning agency for the District of Columbia. OP submits written recommendations on cases before the Zoning Commission and the Board of Zoning Adjustment.

- **The Zoning Commission (ZC)** is a five-member body that prepares, adopts, and subsequently amends the Zoning Regulations and Zoning Map. The ZC has quasi-judicial and quasi-legislative authority. It hears contested cases, where there are parties, and rulemaking cases, where there are no parties (such as when an individual or entity petitions to alter the text of the Zoning Regulations).

Players in the Zoning Process

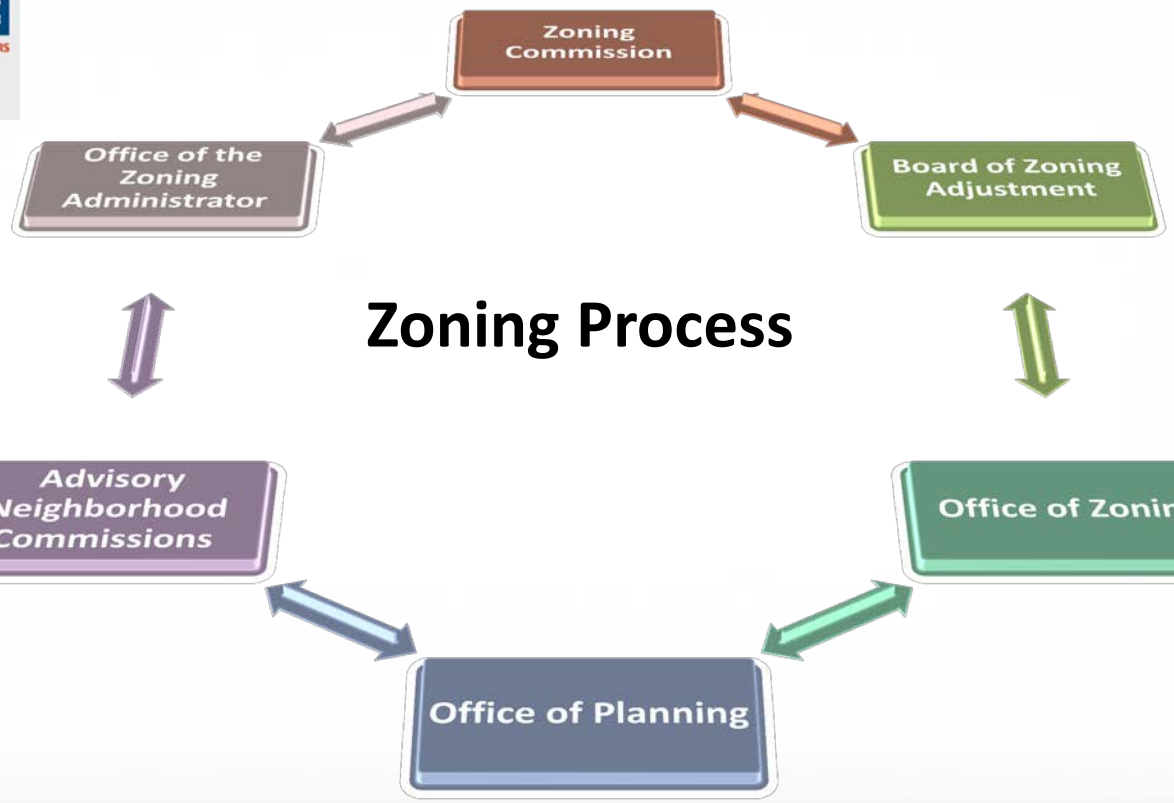
- **The Board of Zoning Adjustment (BZA)** is a five-member quasi-judicial body that hears cases related to variances, special exceptions, and appeals of administrative decisions related to zoning.

- **The DC Office of Zoning (DCOZ)** is an independent District agency that provides professional, technical, and administrative assistance to the ZC and the BZA in support of their oversight and adjudication of zoning matters in the District.

- **The Office of the Zoning Administrator (ZA) (within the Department of Consumer and Regulatory Affairs (DCRA))** is responsible for administering and enforcing the Zoning Regulations as well as ZC and BZA orders. The ZA also handles illegal construction and code enforcement.

Players in the Zoning Process

So how do these players interact with respect to zoning?



How Zoning Works – "By Right"

It all starts with YOU:

- **Want to build something on your land?**
- **Care about what your neighbors are building on their land?**
- **If the Zoning Regulations <u>allow</u> the project:**
  - Property owner may still need a building permit or Certificate of Occupancy (C of O).
  - To get either, the property owner applies to the **ZA at DCRA**.

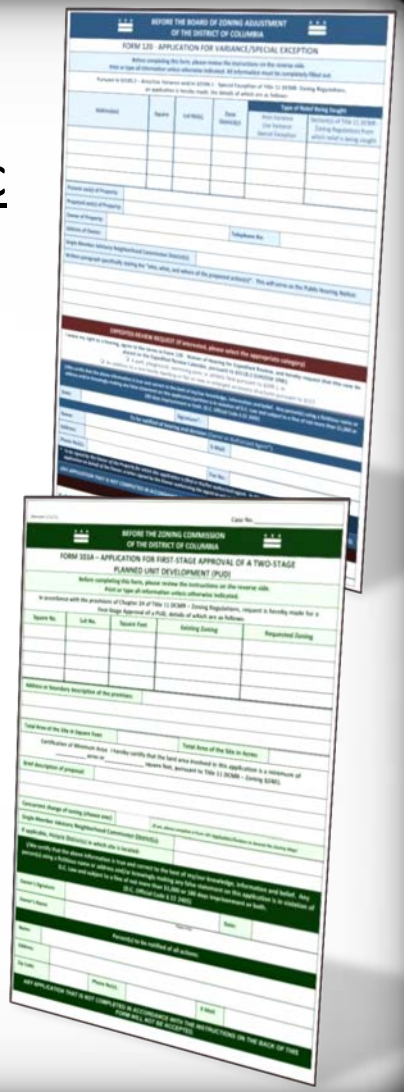
How Zoning Works – Not "By Right" - Need Zoning Relief

- **If the project <u>needs approval</u> beyond what the ZA may authorize,** a referral is made for the owner to come to **DCOZ** to apply for relief from either the **ZC** or the **BZA**.

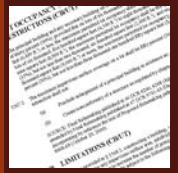
DC Office of Zoning

How Zoning Works – Zoning Applications

- All ZC and BZA applications are processed by DCOZ. Whether they are applications or appeals, they require public notice and a public hearing/meeting.
- Many ZC cases are required to have a setdown meeting prior to the hearing to determine readiness for the hearing.
- Other ZC cases and all BZA cases go straight to hearing. A decision is then rendered either at the end of the hearing or at a subsequent meeting. An order is then issued that represents the ZC or BZA decision in the case.



Types of ZC Cases



Text Amendment: Petition to change the text of the Zoning Regulations. This may include changes to the development standards in one or more Zone Districts or procedural items contained in the regulations.

Map Amendment: Application/Petition to change the Zone District applied to a property; this can also include the addition of an overlay to an area.

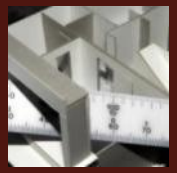
Planned Unit Development (PUD): Special review process for larger developments to ensure high quality development and public benefits.

Campus Plan: A kind of special exception case specifically for large institutional uses like universities and hospitals.

Air Space Development: Request for renting or otherwise using the space above or below streets and alleys in the District of Columbia.

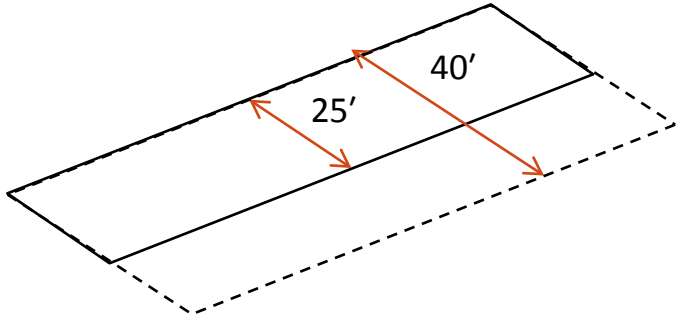
NOTE: *The ZC may decide variances and special exceptions too.*

Types of BZA Cases



Variance: Administrative exception to Zoning Regulations. Need to show: (1) practical difficulties (area variance) OR (2) undue hardship (use variance) related to exceptional situation or condition of the property. Two kinds of variances:

- An **area variance** occurs when an odd configuration of the land causes practical difficulties to the owner, requiring a relaxation of the Zoning Regulations. ***Example***: The required minimum lot width is 40 feet and the existing lot is 25 feet wide.



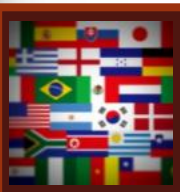
- A **use variance** allows the owner, because of an exceptional condition on the property that creates an undue hardship, to use the property in a way that does not conform to the Zoning Regulations. ***Example***: changing the use of a structure in the R-4 Zone District from residential to office use. *More difficult variance to obtain*.

Types of BZA Cases

Special Exception: A use or level of development permitted in a Zone District, but subject to conditions to alleviate adverse impacts.

- An addition or accessory structure to a one-family dwelling or flat is allowed by **special exception** in the Residential Districts, if the addition or accessory structure does not have a substantially adverse affect on the use or enjoyment of any abutting or adjacent dwelling or property. ***Example***: An application to the BZA seeking to add on to your home that otherwise does not conform to the Zoning Regulations may be granted, provided it does not adversely affect your neighbors and does not exceed lot occupancy rules.

Appeal: An appeal of the decision of any administrative officer or body related to the enforcement or administration of the Zoning Regulations.

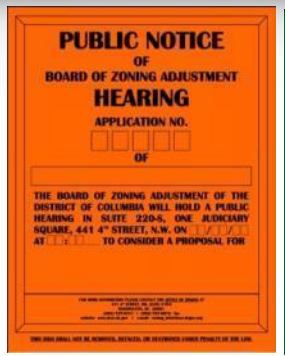


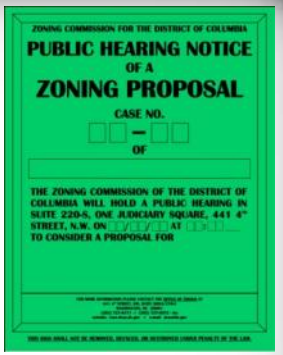
Foreign Missions: An application for a proposed chancery location or expansion in certain Zone Districts.

How Zoning Works - Notice

When a hearing in a zoning case is scheduled, notice is sent to:

- The affected [ANC] Commission
- The affected [ANC] Commissioner
- The Ward Councilmember
- The Office of Planning (OP) and other agencies
- Property owners within 200 ft





Notice is also published in the *D.C. Register (now online at* ***www.dcregs.org***), for many cases, and *s*igns are posted on the property giving notice.

Thus, neighbors get notice of proposed projects that need zoning relief and an opportunity to say how a project affects them.

How Zoning Works – Hearings

- The public may testify
- ZC/BZA hears the merits of the case
- ZC/BZA may announce decision in the case
- Applicant/ANC are parties to the proceeding and may cross-examine

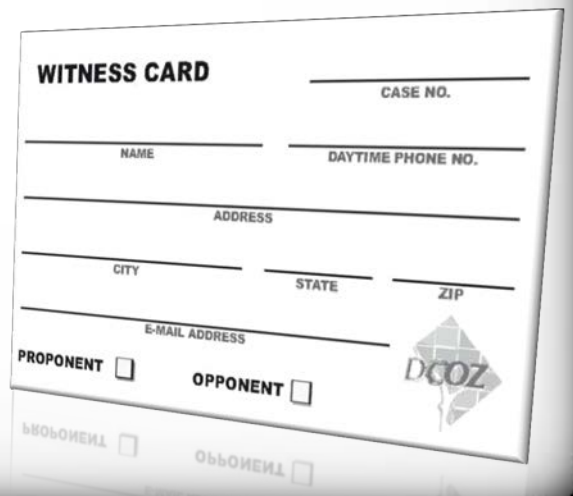
Note: When the ZC or BZA hold a *meeting*, it's simply an opportunity to decide on cases and perhaps for the ZC to consider certain cases for setdown. No public testimony is permitted.

How Zoning Works – Participating in a Zoning Case

Ways people can participate in a zoning case:

- Become a Party – those interested must apply at least 14 days before the hearing and demonstrate how much more affected they are than the rest of public.

- Become a Witness – anyone can appear and give testimony in support or in opposition to a case.



- Submit a letter for the record (while the record is open).

How Zoning Works – The Role of Certain Participants in a Zoning Case

- OP reviews all applications for zoning relief and its recommendations get "great weight."

- The affected ANC reviews all applications for zoning relief. The ANC's written report is also given "great weight."

www.dcoz.dc.gov

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Zoning Case Search

Zoning Map

Zoning Regulations

Live Webcast

OP Reports

Zoning Guidebook

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Questions?

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