

## Jack's March report

At the February 18 meeting, the ANC:

- Asked DDOT to put up “Stop for Pedestrians in Cross-walk” signs at crosswalks across Mount Pleasant Street;
- Set a budget for hiring an Administrative Assistant;
- Authorized an expenditure for technical assistance with monthly meeting setup;
- Created a “community clean-up” committee;
- Advised the DCRA Zoning Administrator to send copies of his “Determination Letters” to affected ANCs.

I mentioned last month that the Meridian Hill Baptist Church is being converted to **an 85-unit apartment house** (rentals, not condos, my mistake) **with zero off-street parking**, despite the zoning regulation calling for at least 14 off-street parking spaces. I thought this was just a poor judgment by the DCRA Zoning Administrator, giving the developer, in a Determination Letter, “credit” for the 75 off-street parking spaces that the church would have been required to have (but did not), according to current zoning regulations. Well, not so: this turns out to be *standard procedure* in the Office of Zoning! Worse: that practice is due to be written into the new zoning regulations, currently in the final stages before legal enactment.

This is precisely the sort of thing that ANCs were created to deal with. We are, according to the DC Code, empowered to “advise the Council of the District of Columbia, the Mayor and each executive agency, and all independent agencies, boards and commissions of the government of the District of Columbia with respect to all proposed matters of District government policy”. That’s what “advisory” means.

I intend to “advise” the District Government to cease that absurd practice. But I was unable to get the ANC to address this problem at the February meeting, as the commissioners were preoccupied with their own issues.

I did get my resolution concerning **DCRA Zoning Administrator “Determination Letters”** passed. This is what we ANC people are elected to do: figure out the workings of the District Government, and try to steer it right when it comes to matters affecting our neighborhood.

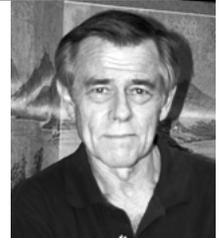
The Zoning Administrator is the guy developers go to when they have troublesome zoning issues, and do not want to go to the (much more difficult) Board of Zoning Adjustment (BZA) to apply for a zoning “variance”. The DCRA Zoning Administrator can just say “okay”, and that’s that. There is no public hearing, nor is there notice to the ANC that a zoning judgment affecting our neighborhood has been made.

Twice our neighborhood has been burned by bad Zoning Administrator decisions. This time, it was allowing an 85-unit apartment house to be built with no off-street parking, contrary to the R-5-D regulation requiring 28 (or 14, allowing for the proximity of the Metro station) off-street spaces. In 2004, it was a decision allowing the developer of 1636 Irving Street to cram seven apartments into a row house on a lot that would, according to the R-4 zoning regulations, permit only three. Developers love going to the Zoning Administrator and getting such developer-friendly decisions.

## ANC 1D03 NEWSLETTER #147

Jack McKay, March 15, 2015

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In the current case, as well as that of 2004, the ANC discovered what was going on only when construction began, too late to do anything about it. It would seem obvious that ANCs should be told of such decisions: District agencies are required to provide “thirty days written notice, excluding Saturdays, Sundays and legal holidays of such District government actions or proposed actions”. The Zoning Administrator has never felt that this law applies to him and his Determination Letters. I think it does.

As for the decision allowing the 85-unit apartment house with no off-street parking, that decision turns out to have been issued way back in 2010. The Meridian Hill Baptist developer, who has been totally cooperative, provided me with a copy of that Zoning Administrator Decision Letter. The Administrator himself was unable to find it for us. I am not impressed.

About that absurd policy allowing this 85-unit apartment house to be built with zero off-street parking – that is currently unwritten policy, but is about to become formal, written, legally mandatory policy, thanks to the rewrite of the zoning regulations, now in its final stages. Buried in those new regulations is this text:

*705.2 When determining the required number of additional required parking spaces, it shall be assumed that the previous use provided at least the minimum number of spaces required.*

“It shall be assumed” means that **those “required parking spaces” need not exist in order to count towards the zoning requirement**, as is current, unwritten policy. The new regulations will make it written, *enforced* policy. Furthermore, the imperative “shall” means that this will be mandatory, inflexible policy. Thank you, DC Government!

In the current case, the previous structure – the church – was required, according to zoning, to provide one off-street space for every 10 persons listed on the Certificate of Occupancy. That being 750 persons, the church was “assumed” to have 75 off-street spaces, for the purposes of these regulations. That being more than the 14 or 28 required for the apartment house, the Zoning Administrator agreed to permit the apartment house with *zero* spaces. That the 75 spaces for the church don’t actually exist is irrelevant. They are simply “assumed”. How does that policy serve the public interest?

I proposed that DDOT be asked to **implement another crosswalk at the Kenyon intersection with Mount Pleasant Street**. There’s a crosswalk on the north side of the intersection, at the 7-11, but none on the south side, at the Monseñor Romero Apartments. Tracks through the snow

make it clear that many people cross the street there, despite there being no crosswalk, and it's standard practice anyway to have crosswalks at every edge of an intersection. But this ANC rejected my resolution by a 4 to 1 vote, arguing, among other things, that it would be a hardship on drivers to have to stop for pedestrians twice in a distance of 30 feet.

I think we should favor pedestrians over automobile drivers *everywhere* on Mount Pleasant Street. Furthermore, because many pedestrians do cross Mount Pleasant Street on the south side of the Kenyon intersection, the ANC's decision compels those pedestrians to cross at their own risk, dodging cars. Overlooked in this matter is that, legally, there may be an unmarked crosswalk at the south edge of this intersection, because the Kenyon Street sidewalk ends there, and in general a crosswalk begins where a sidewalk ends. A crosswalk would have made this legal situation clear, and might have offered some protection to the many pedestrians who cross the street there. But the ANC said no to that.

Department of Parks and Recreation (DPR) policy is this:

*In cases where an event may disturb residents in the surrounding community due to noise, music volume, traffic, parking burdens, or otherwise, . . . DPR may require an applicant to obtain a letter of support for the event from the Advisory Neighborhood Commission presiding over that specific area . . . prior to issuing a permit.*

The ANC letter is not an expression of approval for the event itself. It is only an ANC judgment that the event will not be a disturbance to the neighborhood. (And if there are complaints, DPR will just pin the blame on the ANC.)

Some time ago we made this process easy, requiring applicants merely to send us an e-mail describing the event and showing awareness of possible disturbance issues, e. g., loud music. If no commissioner objects, then the letter is sent. The applicant does not have to come to an ANC meeting.

The **Farmers' Market** needs such a letter to begin its 2015 operations in April. The appropriate e-mail arrived on March 11, and I anticipated that we could provide the necessary letter a few days later. However, three commissioners – Arturo, Rosa, and Franko – objected, wanting the sponsor to appear at the March 24 ANC meeting to answer some questions about the operation of the Market.

I do not agree with that, because we know full well that the Market, which has been in operation for 11 years, every Saturday morning for about seven months of each year, is not a disturbance to the neighborhood. It's a very popular event, and it's a mistake for the ANC to appear to be obstructing it.

This ANC has a lot of money sitting idle in a bank account, and of course there are demands that we spend that money, perhaps as grants, for the benefit of the neighborhood. A recent Auditor's decision illustrates how hard this can be. The Chevy Chase commission gave out \$1740 to provide gloves and socks and thermal underwear to the homeless in that area during this fiercely cold winter. **The DC Auditor disallowed the expenditure, citing it as a violation of the ban on "personal subsistence" expenditures by ANCs.**

This illustrates how hard it is to use our money and not run into bizarre prohibitions based on the all-too-vague text of the

ANC law. Even the Attorney General's letter pertinent to this decision noted the absurdity of the law. If the recipients of the clothing *had not needed the clothing, then the expenditure would have been legal. But they did need the clothing, due to their poverty and the cold weather, and that need made the expenditure illegal.* Don't blame the lawyers, blame the District Councilmembers, who clearly didn't understand the meaning of the word "subsistence" when they wrote this law.

So our funds – we get about \$12,000 a year to operate the commission – pile up in the bank, the sum currently just under \$100,000. I'd rather the money sit in the bank than the ANC be charged with misuse of taxpayer funds.

We have agreed to spend about \$1700 for the Holiday Party that the Business Association held in Lamont Park last Christmas. Will the DC Auditor allow this expenditure, or will we have inadvertently violated some obscure ban in the ANC law? I am not optimistic.

I got one of those **threatening "Treasury Department enforcement action"** phone calls. Here's what the IRS says:

*Aggressive and threatening phone calls by criminals impersonating IRS agents remain near the top of the annual "Dirty Dozen" list of tax scams for the 2015 filing season, the Internal Revenue Service announced today.*

*The IRS has seen a surge of these phone scams in recent months as scam artists threaten police arrest, deportation, license revocation and other things. The IRS reminds taxpayers to guard against all sorts of con games that arise during any filing season.*

*"If someone calls unexpectedly claiming to be from the IRS with aggressive threats if you don't pay immediately, it's a scam artist calling," said IRS Commissioner John Koskinen. "The first IRS contact with taxpayers is usually through the mail. Taxpayers have rights, and this is not how we do business."*

Indeed. I checked the callback number for the phone call here, and it's a "Skype VoIP" call via Hyattsville. That is, whoever the call is going to could be anywhere in the world. "Heavy spam activity suspected", says the reverse-phone-number system. Clearly this was not a legitimate call.

"Call now before you get arrested!" demands this caller. Thanks, but I'll take my chances. If residents should get phone calls like this, do not be frightened into calling back.

I intend to offer a resolution in support of Councilmember Grosso's bill in the District Council that would **permit legal residents to vote in local elections**, even if not citizens. It's only fair: residents who are affected by decisions made by the District Government deserve some say in the people who make those decisions. One doesn't have to be an expert at the Constitution to know what makes sense in local government. Before a period of anti-immigrant sentiment in the 1920s, noncitizen voting was commonly permitted in many states. We tend to think of citizenship as a prerequisite for voting, but that is true only for Federal elections.

Councilmember Grosso tried this in 2013, and had our endorsement then, but his bill didn't make it out of committee. I hope for a better result this year.

The next meeting of the ANC will be on Tuesday, **March 24, 7:00 pm, at the Mount Pleasant Library.**