

WHEREAS the Neighborhood Commercial Overlay District ("NCOD") has been part of the Zoning Regulations since 1989, and reflects a signal achievement of this community to protect the values of its neighborhood business districts, to assure a diverse commercial environment that has appropriate neighborhood shopping and services, and to avoid the noise, trash, congestion, and safety deterioration that residents have experienced in other commercial districts; and

WHEREAS we have for over two years been seeking DCRA's enforcement of the overlay restrictions, after realizing that Certificates of Occupancy ("C of O's") and building permits have been unlawfully issued to several restaurants; and

WHEREAS DCRA has recently issued "Standard Operating Procedures" which would de facto amend the NCOD regulations; and

WHEREAS the Zoning Commission has now promulgated a proposed Text Amendment to the NCOD, Case 02-06 (misabeled as "Limitation for Eating or Drinking Establishments"), for which a public hearing is scheduled on July 18; and

WHEREAS although the proposed Text Amendment is billed as a mere clarification "to provide uniform procedures", its actual language would effectively repeal the basic zoning limitations imposed by the NCOD, by permitting indefinite--or even permanent--continuation of occupancy within the NCOD by new restricted-use establishments in excess of the 25% limit, and would count the empty spaces of former restaurants for up to three years, at the expense of other businesses which are fenced out, and which would benefit if the attrition of over-the-limit space were allowed to take its course; and

WHEREAS the proposed Text Amendment has the appearance of being a private bill, so crafted that it would provide a windfall benefit to one developer, by rescuing him from the consequences of having evicted several restricted-use businesses (after he had been publicly cautioned that he would be unable to rent to new restaurants under the existing zoning); and

WHEREAS, if this Text Amendment has been tailored to financially benefit a specific developer, at the expense of small businesses and the neighborhood and at the expense of fair and expeditious application of the overlay limitations, that creates an appearance of corruption that cannot be tolerated; and

WHEREAS the Text Amendment addresses other issues which need clarification, but creates new ambiguities (especially "(e)", which provides an algorithm for counting mixed-use establishments with language so grammatically defective that it fails to say what it apparently means to say); and

WHEREAS the Text Amendment does not address other previously raised issues which are in need of clarification, such as the method of counting non-ground-floor establishments, and the need for some sort of queue for potential tenants when the percentage is at (or above) the limit; therefore be it

RESOLVED that the Cleveland Park Citizens Association is strongly opposed to the adoption of the proposed Text Amendment in its present form, and opposed to any amendment that would legitimize efforts to subvert the plain intent of the existing regulations; and be it further

RESOLVED that CPCA's concerns and recommendations are reflected in the marked-up revision of the proposed Text Amendment to 11 DCMR 1302.5 attached to, and made a part of, this Resolution; and be it further

RESOLVED that the issue of establishing a queue for future businesses, as dealt with in detail in Section 4 of CPCA's letter to DCRA of July 9, 2001 (which is attached to, and made a part of,

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Resolution), should be provided for in a revised Text Amendment; and be it further

RESOLVED that the president of CPCA or his designee(s) are authorized to testify for CPCA at the July 18 hearing and related proceedings.

Adopted by unanimous vote at the Annual Meeting, June 1, 2002.