

Cover memo
Cleveland Park Citizens Association

Cleveland Park Citizens Association

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To: Zoning Commission
From: Cleveland Park Citizens Association
Date: March 10, 2006
Subject: Case No. 02-06 Comments on Text Amendments

This memorandum and its enclosure constitute the comments of the Cleveland Park Citizens Association on this proposed rulemaking. We are pleased that the Zoning Commission's proposed text amendment is substantially consistent with the proposal that we originally submitted. However, there are several revisions that we urge you to make, to help achieve the Commission's goal of a clear, definitive, enforceable text. For clarity, we have integrated our suggested revisions into the text amendment, and we provide the text amendment thus revised as an enclosure herewith. Rationales for the changes are as follows:

- B. The existing language of (a) does not define "roadway" in the NCOD and confuses it with "designated use area." Compare "designated roadways" in 1302.5(a), with "designated use area" in 1306.3 and 1307.3 and 1308.4. This revision clears up the confusion.
- C. Subparagraphs are redesignated to be consistent with our addition of two new subparagraphs.
- D. (b) [no change]
- (c) This subparagraph has been modified to make it consistent with subparagraphs (f) and (h).
- (d) [no change]
- (e) How the record is kept is critical to enforcement of the Overlay in a consistent and transparent manner. The language of this subparagraph, while descriptive, is not prescriptive, and does not order the Zoning Administrator to do anything. (Please note: The Zoning Administrator, Mr. Crews, endorses this provision.)
- (f) This subparagraph describes the enforcement process, a core provision missing from the proposed text amendment. This is essential to maintaining the NCOD limitation in an orderly way.

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(g) [(e) in the proposed text amendment] Two months, rather than six, would seem to be a reasonable period for initially assembling the registry. It is our hope that updating will be automatic and done on a continuing (daily) basis.

(h) [(f) in the proposed text amendment] The change from "a" to "the" clarifies the linkage between the building permit and the specific certificate of occupancy necessitated by the permitted work.



George J. Idelson 3/9/06

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

Case No. 02-06

**(Text Amendments to the Neighborhood Commercial Overlay District:
Limitation on Eating or Drinking Establishments)**

Title 11 DCMR Zoning, chapter 13, Neighborhood Commercial Overlay District, subsection 1302.5 is amended as follows (additions to the existing text are shown in bold and underlined. Deletions in strikethrough):

A. The introductory text is amended to read as follows:

1302.5 ~~Restaurants, fast food restaurants, delicatessens, carry-outs, and similar eating or drinking establishments~~ **An establishment that is required to obtain either a Basic Business License with a Public Health Food Establishment Restaurant Endorsement or a CR or DR Restaurant, CT or DT Tavern, or CN or DN Nightclub Alcohol Beverage License shall be subject to the following limitations (and shall hereinafter be referred to as an “eating or drinking establishment”):**

B. Subparagraph (a) is amended to read as follows:

- (a) These uses shall occupy no more than 25% of the ground floor street frontage (within a particular NCOD) of the lots facing the roadways named in the definition of the “designated use area” of the particular district;

C. The existing text of subparagraph (b) is redesignated as subparagraph (i) and amended to read as follows:

- (i) Except for a fast food restaurant, such uses may be applied to fulfill the requirements of § 1302.4; provided, that when such uses are so applied, they shall remain subject to the provisions of paragraphs (a)-(h) of this subsection.

D. New subsections (b) through (h) are added, to read as follows:

- (b) The linear street frontage of each designated roadway shall be based upon the certified and recorded plats in the Office of the Surveyor, measured to the Zone District Boundary line of each commercial zone district within the overlay;
- (c) The total linear street frontage of eating or drinking establishments shall be based on the existing licensing records of the Department of Consumer and Regulatory Affairs and the Alcohol Beverage Regulation Administration by address, augmented by street frontage of properties for which construction permits have been issued, where the intended use is a new eating or drinking establishment, or an expansion of an existing such establishment;

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- (d) If an eating or drinking establishment occupies all or part of the ground floor level of a corner lot facing two or more designated roadways, the linear street frontage for each designated roadway shall be included for purposes of determining compliance with § 1302.5(a)
- (e) For purposes of compliance with, and enforcement of, these provisions, the official record of (1) the total amount of street frontage attributable to eating and drinking establishments and (2) the percentage that amount is of the total frontage within the Overlay District, shall be the registry of such information that is maintained by the Zoning Administrator, which is available for public inspection during normal business hours;
- (f) In order to enforce the substance of these regulations, no construction permits (building, electrical, plumbing, etc.) shall be issued for any property within the Overlay District if the intended use is a new eating or drinking establishment, or an expansion of the frontage of an existing such establishment, until and unless the Zoning Administrator finds that the addition of this establishment's frontage will not cause the total eating and drinking establishment frontage to exceed 25% of the total frontage within the Overlay District;
- (g) If the measurement of linear street frontage occupied by eating and drinking establishments on any Overlay District is not updated within two (2) months after [THE EFFECTIVE DATE OF THIS AMENDMENT], or is not updated at least every twelve months thereafter, it shall be assumed that the linear street frontage occupied by eating or drinking establishments in the NC Overlay District exceeds the applicable percentage limitation, until a subsequent update indicates otherwise;
- (h) Compliance with the requirements of this section shall be determined at the time when a building permit is applied for and shall not be revisited when an application for a the subsequent certificate of occupancy is made.

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