

## **Cleveland Park Citizens Association**

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TO: Zoning Commission for the District of Columbia

RE: Text Amendment – Case No. 06-23

DATE: April 19, 2007

### **Comments of the Cleveland Park Citizens Association:**

Several years ago, the Cleveland Park Citizens Association petitioned this body to amend the text of the Cleveland Park Neighborhood Commercial Overlay to make it clearer, more transparent and easier to enforce. The goal of the Overlay is to limit the impact of eating and drinking establishments on traffic, parking, noise, and trash, and also to keep rentals affordable for the other kinds of the businesses the neighborhood needs and desires. The Overlay is important to us and we have stake in getting it right.

Regrettably, the text amendment you are now considering works against that goal. The more we analyze it, the more we feel it is essentially unworkable and needs to be redone.

The problems begin with the proposed introduction of a new use called “prepared food shop,” which is “principally devoted to the sale of prepared food, non-alcoholic beverages or cold refreshments,” which is intended to replace the concept of a delicatessen, and would also overlap carryouts, including pizza shops. “Prepared food” is defined as food that is “assembled, but not cooked, on the premises of a prepared food shop.” The entanglements and confusion that these notions introduce arise largely from the use of “cooking” as a pivotal criterion when distinctions between heating, re-heating, micro-waving, cooking, etc. make a definition resting on this concept a hopeless tangle.

We commend to you the detailed discussion of this issue in both the resolution of ANC3C and the careful analysis provided in the written comments of the Woodley Park Community Association.

The drafters appear to depend on the word “principally” in the definition of “prepared food shop” to avoid obvious problems, since “prepared food” as defined would exclude anything which a delicatessen cooks, heats or reheats, such as meatballs, egg salad, hot pastrami, or sushi (which contains cooked rice). However, the word “principally” provides a huge loophole that would, for example, allow for the sale of wine and spirits, clearly not intended. On the other hand, a delicatessen may well engage in sufficient food heating of various sorts to raise a question as to whether it can fit into the definition of a “prepared food shop.” These ambiguities will confront the Zoning Administrator or permit clerk with judgment calls at many turns – exactly the kind of situation that needs to be eliminated.

4/19/07

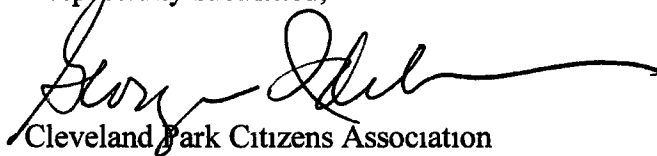
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The text amendment depends so centrally upon these defective definitions as to make it unworkable, and even counterproductive. But there are additional problems with the proposed definitions. For example: One of the criteria for a "fast food establishment" is that it does not have a dishwashing machine, but in fact, any restaurant will need such equipment for kitchen utensils and for containers used in cooking and serving. To illuminate how perversely the text amendment would affect the administration of the overlays, we invite your attention to the fact that McDonald's, by installing a single seat in front of its service counter, would meet the criteria for claiming that it is NOT a fast food establishment.

Another outcome of the text amendment that would undermine the overlay concept is the jumbling together of categories that need to be regulated separately. For example, "prepared food shops" is apparently intended to include delicatessens, which we do not want included in the restricted category, together with coffee shops, which clearly do need to be included.

The Cleveland Park Citizens Association endorses the resolutions of ANC 3C and the written comments of the Woodley Park Community Association. We strongly recommend that the text amendment be withdrawn and redrafted de novo, in close consultation with the interested ANCs and community associations.

Respectfully submitted,



Cleveland Park Citizens Association  
George Idelson, President



Peter Espenschied, First Vice President