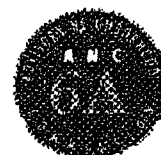




District of Columbia Government
Advisory Neighborhood Commission 6A-02
815 F Street, NE
Washington, DC 20002



July 23, 2007

Ms Sharon S Schellin
Secretary of the Zoning Commission
Office of Zoning
One Judiciary Square
441 4th Street NW, Suite 210S
Washington, DC 20001

Re: ZC Case #06-23

Ms Schellin

Please forward this letter of support for the Office of Planning's Supplemental Report for text amendments to change eating establishment definitions to the members of the Zoning Commission

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I would ask that the Zoning Commission consider implementing all thirteen changes proposed in the attached report. Most notably, please consider (1) the inclusion of movie theaters, (2) raising the matter of right threshold for a prepared food shop from 12 to 18 seats and (3) the revised definition of the cooking.

In close, all of the proposed corrections should be adopted to clarify the initial proposed text amendment. Accordingly, I am asking for your adoption of the items contained in the Office of Planning's Supplemental Report

Respectfully,

Joseph Fengler, ANC 6A-02

Cc Councilmember Tommy Wells

ZONING COMMISSION
District of Columbia

CASE NO. 06-23

EXHIBIT NO. 38

ZONING COMMISSION
District of Columbia
CASE NO.06-23
EXHIBIT NO.38

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

MEMORANDUM

TO: Zoning Commission for the District of Columbia

FROM: Harriet Tregoning
Director

DATE: May 23, 2007

SUBJECT: Supplemental Report for Text Amendments to change eating establishment definitions, initiated by ANC 6A.

At its public hearing on April 19, 2007, the Zoning Commission requested OP to tabulate all of the comments and concerns with the proposed text amendment and make changes as necessary. Using the written filings, OP listed requested changes from the Restaurant Association of Metropolitan Washington (RAMW), ANC 3C (3C), ANC 6B (6B), Woodley Park Community Association (WP), and Lindsley Williams (LW).

While OP did its best to respond to each comment with new language in the text amendment, the issues addressed by this proposal are complicated and defy straight-forward solutions. One of the central issues that many groups have is the way to separate out small neighborhood food service uses that are not restaurants or fast food restaurants. The term "cooked" caused much consternation, so the term has been removed. The alternative solution, outlined below, accomplishes the same goal of separating out neighborhood food uses while eliminating the need to establish a unique definition for "cooking "

OP continues to support the general method laid out in its previous report. This is an extremely complicated issue without a perfect solution. We believe that the amendments made based on the comments below address the issues raised by the parties as completely as possible and that the text amendment proposed will provide a much clearer process than exists now.

Eating Establishment Text Amendment

ZC #06-23

Page 2

Issue	OP response
1. <i>Definition of Cooking (WP, 3C, LW)</i>	Through consultation with OAG, the term "cooked" has been removed. Food in prepared food shops is not heated except with a microwave or toaster. All other establishments would fall into the restaurant or fast food establishment categories.
2. <i>Lack of exception for secondary use as fast food, including movie theatres (WP, 3C)</i>	In the proposed language there is an exemption for restaurants and grocery stores who have carry-out food as a secondary use. This exception should be extended to other uses with secondary food service like movie theaters and is reflected in the attached text.
3. <i>Characteristics that satisfy elements (b) and (c) of fast food establishment need to be more clearly non-determinative (WP, 3C)</i>	This is a legitimate concern that has been addressed by rewording the proposed language.
4. <i>Raise limit of matter-of-right Prepared Food Shop from 12 to 18 (6B)</i>	OP is open to either number. The attached language has been changed to 18 seats.
5. <i>Prepared food shop should replace "delicatessens, carry-outs, and similar eating or drinking establishments" in the limitations of Section 1302.5 (WP, 3C, LW)</i>	This change has been added to the attached text.
6. <i>Amendment 39(d)(1) should change 721.3(s) rather than 721.3(t) (3C, LW)</i>	This change has been made.
7. <i>Amend language in § 1807(fff) to change fast food to fast food establishment (LW)</i>	The text states that one preferred use is "restaurant, not including drive-in and fast food." Rather than include the word "establishment" it would be clearer to simply remove the modifying phrase and have the preferred use as simply "restaurant."

Eating Establishment Text Amendment

ZC #06-23

Page 3

8. <i>Provide a separate category and definition for cafeteria (6B)</i>	The reason for differentiating between restaurants and fast food establishments has been the different impacts that those uses have on the surrounding community. The cafeteria models in existence today have impacts that relate more, especially in terms of number of people served, to fast food than to restaurants and do not differ enough from fast food uses in impacts to justify a separate category. OP believes that cafeterias in C-2-A zones should have the same review as other uses with similar impacts.
9. <i>Amend criteria for fast food establishment special exception in the C-2-A zone (6B)</i>	A new subsection under 733 has been added to allow modification of certain requirements under Section 733 by Special Exception See 3(e).
10. <i>Change the term "plates" to "tableware" (RAMW)</i>	This change has been made.
11. <i>Provide amnesty for existing Certificates of Occupancy that do not fall into correct categories. (RAMW, LW)</i>	The Zoning Administrator has indicated that many businesses with incorrect Certificates of Occupancy would not be allowed to operate as a matter-of-right if they had been issued correctly. This puts any impacts of such businesses on the surrounding community without proper public comment. He recommends continuing to require relief for incorrect C of Os when a change of ownership or alteration requires them to be updated. He would support allowing existing uses that would otherwise need a variance to proceed as a special exception.
12. <i>Remove Drive-in as an identified use (LW).</i>	This change has been made.
13. <i>Various grammatical and technical changes (LW).</i>	Many of these changes have been made in the text.