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1642 Thirty-fifth Street, N.W.
Washington, D. C. 20007

To: Carol Mitten, Chair
Zoning Commission

September 5, 2007

From: Barbara Zartman

Re: Z. C. 07-15

The enclosed statements are intended for consideration in connection with the captioned proposed rulemaking.

Barbara Zartman

ZONING COMMISSION
District of Columbia
CASE NO. 07-15
EXHIBIT NO. 11

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CASE NO.07-15
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1642 Thirty-fifth Street, N.W.
Washington, D. C. 20007

Ms. Carol Mitten, Chair
Zoning Commission
441 Fourth Street, N.W.
Washington, D. C. 20001

September 5, 2007

Madam Chair:

Re: Z. C. 07-15 - Accessory Structures

It was regrettable that testimony and written submissions from the Committee of 100 and from the Citizens Association of Georgetown were not available to the Zoning Commission when it first considered this proposed rule. On behalf of myself and my colleagues, I apologize for our part in that circumstance.

Our deep concerns about the impact of the proposed rulemaking, however, are as strong as ever. The CAG board even adopted approval of testimony before the National Capital Planning Commission because of the harmful impact on the Georgetown National Historic Landmark. The testimony CAG was prepared to give at the Zoning Commission's hearing is appended to reflect the complex of impacts that would harm the Georgetown community. It is my understanding that Advisory Neighborhood Commission 2C also adopted a strong resolution of concern at its meeting this week, asking the Zoning Commission to reconsider this rule.

The Committee of 100 on the Federal City shares those concerns for the NHL but also expresses its opinion that the broader impact on residential areas across the District will be harmful and will thwart the intended protections of the zoning plan. Continuing the blending of R3 and R4 districts, as 07-15 proposes to do, diminishes the number of properties that will offer the intended character of the more protective zone.

Moreover, blurring the distinction between detached/semi-detached houses and rowhouses would allow the densities of the more protected structures to increase by 75%. Surely this is a major change in the zoning plan, the effects of which require much more consideration. [A detached/semi-detached house in R3, for example, is limited to a 40% lot occupancy; the proposed rule would allow 70% lot occupancy by special exception for the same property.]

It is true that this leniency – and the waiver of protective rear, side-yard, and other requirements – is currently available for attached garages. However, extending it to any number of structures detached from the main residence would increase the amount of development in what is now open space with what we expect will be a flood of applications for various types of accessory buildings.

This joint request from The Committee of 100 and the Citizens Association of Georgetown asks that the Zoning Commission pull the proposed rule for reconsideration and revision. We would all look forward to working with the Office of Planning to help fashion a proposal for the Commission's consideration that would provide more flexibility without making possible such harm to residential communities.

On authorized endorsement of both organizations that I serve, I ask that the Zoning Commission not grant final approval of this rulemaking.

Sincerely,

Barbara Zartman, Chair
Zoning Subcommittee
The Committee of 100 on the Federal City

and

Chair, Committee on Historic Preservation,
Planning, and Zoning
Citizens Association of Georgetown

Citizens Association of Georgetown
Statement in Opposition
Zoning Commission Case 07-15

Monday, July 23, 2007

The Citizens Association of Georgetown has no higher current priority than the protection of open space in Historic Georgetown, a National Historic Landmark, designated as having special meaning and value to the nation as a whole, in addition to its significant contribution to the cultural history of the District and to the District economy.

This measure, viewed in one context, can be seen as an accommodation to modern lifestyles. But we view it as an invitation to occupy more of the precious open space with accessory buildings (not just garages, as the OP report recommends). While current regulations allow for the possibility of special exceptions for building additions of similar lot coverage, the impact of free-standing structures can be much greater, limiting the open courts and side yards and rear yards.

Moreover, it continues to blur the distinction between the two categories in both R3 and R4, apparently assuming that the impact would be indistinguishable between the categories of (a) free-standing and semi-detached homes and (b) townhomes. For the former category, this offers a potential 30% bonus in lot coverage, from 40% to 70%. While these are the same percentages allowed for attached structures in the current regulations, expanding their availability for these new and open-ended uses threatens the comparatively limited open space in built-out communities.

The subjective standards that neighbors are compelled to use have rarely been useful in proving harm. Testimony at the recent roundtables regarding special-exception conditions has noted the consistent dissatisfaction in residential communities with how the terms of §223 are interpreted. Neighbors would have to prove that the proposed new structure would "unduly" affect their light and air or that it would "unduly" compromise their privacy of use and enjoyment. Nowhere in the proposed rulemaking is there discussion of the collective effect of numerous 900 sq. ft. accessory structures in an established community, or the potential effect on neighborhood cohesiveness (as opposed to streetscape concerns).

In addition to the current burden on neighbors to demonstrate that additions to houses are adverse, this amendment would add to their burden the need to prove that any accessory structure (storage shed, animal kennel, guest cottage, gameroom/clubhouse - endless possibilities) would have a "substantially adverse affect (sic) on the use or enjoyment of any abutting or adjacent dwelling or property ... " and should not "substantially intrude upon the character, scale, and pattern of houses along the subject street frontage ..." It would be anticipated that such additional structures would be in the rear of properties (not added to the side of an existing residence), making this provision largely irrelevant.

The fundamental irregularity of this proposed change is embodied in §223.1, which acknowledges that the structures might not comply with as many as six provisions of the zoning regulations; extending this nonconformity to a whole new class of detached structures undermines the value of the intended protections of open space.

Last, the Old Georgetown Board and the Commission of Fine Arts have held to a policy of rejecting requests for additional curb cuts, a policy we strongly support because of the way such cuts remove street parking that is otherwise available for all neighbors in order to provide a convenience to one homeowner.

That the proposed rulemaking, as advertised, goes beyond even the intent of the setdown report to include not just garages but all manner of "accessory" buildings suggests that it may be appropriate to return to the drawing board for rethinking of what this provision would allow - and destroy.

We oppose adoption of this rule as advertised.

The Committee of 100 on the Federal City
Statement in Opposition - Zoning Commission Case 07-15
September 6, 2007

The fact that the advertised rule would allow not just garages but all manner of accessory buildings to be added to existing structures covering a lot up to 70%, with full acceptance of their violation of side yard and rear yard provisions (among others) intended to protect neighboring properties.

Moreover, the blending of R3 and R4 zones violates the clear intent of the regulations to establish different standards regarding lot coverage. §330.2 notes that "Very little vacant land shall be included within the R4 District, since its primary purpose shall be the stabilization of remaining one-family dwellings." In contrast, §320.1 describes R3 districts as having both row dwellings and one-family detached and semi-detached dwellings and repeats the R1 use limitations "To maintain a family-life environment".

R4, on the other hand, permits a range of more intense uses beyond those permitted in R3, including of-right boarding houses and rooming houses not allowed in R3. Rulemakings that weaken protections for single-family zones do not further the intent and purpose of the zoning regulations. Using the 70% maximum lot coverage in both R3 and R4 misses the intended distinction in the regulations.

Many neighborhoods are already having difficulty constraining illegal residential use of pre-existing nonconforming garage structures and carriage houses; it is far more likely that free-standing garages or accessory buildings would be used for such purposes than would attached garages or additions.

Similarly, accessory structures are ill-defined and could include much highly impactful construction and activity. We ask the Commission to reconsider the basis on which this proposal is founded and reject it in its present formulation.