

1425 S Street, NW
Washington, DC 20009-3819

Sharon Schellin, Secretary to the Zoning Commission
Office of Zoning
441 4th Street, NW Suite 200/210-S
Washington, DC 20001

June 4, 2008

Dear Ms. Schellin:

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I am writing to comment on the subject matter of the proposed rulemaking action for Z.C. Case No. 07-34 (Map and Text Amendments - 11 DCMR) (Rezoning Portions of Squares 176, 177, 177N, 178, 190, 190, 206, and 207) as published in the District of Columbia Register Vol. 55 - No. 20, May 16, 2008, pages 00579-005793. I am asking the Zoning Commission to follow up on it's discussion at the Monday, April 28, 2008 public hearing and find out in the words of Commissioner May:

I mean, I would feel more comfortable knowing it before final action, whether, in fact, this non-conformity or any non-conformity that's created by rezoning from R-5-B to R-4 is going to cause licensing problems for flats. Because I think that could be a much bigger issue for quite a number of properties.¹

Stated another way, I would like the Zoning Commission to know whether by passing the proposed rulemaking, they will unintentionally prevent owners of existing residential dwellings that would become non-conforming in an R-4 zone from being able to get a certificate of occupancy for their basement flat.

As a background, here is my partial testimony from the Monday, April 28, 2008 public hearing:

My name is Peter Knapp. I live at 1425 S Street, and I just want to make a couple of points. I'm a homeowner who's living in an existing flat that would become non-conforming if the zone changed to R-4, because my lot is less than 18 feet wide, so there's nothing I can do to change that. I'm concerned that that would prevent me from getting a Certificate of Occupancy for my English basement rental apartment. The DCRA is requesting or actually requiring that I do that. And I don't know what to do if the zoning changes because then I -- I don't know what the outcome would be. But I'm concerned

ZONING COMMISSION
District of Columbia

CASE NO.

07-34

EXHIBIT NO.

41

¹Lines 5-12 of page 62 of the transcript from Government of The District of Columbia, Zoning Commission, Public Hearing, Case No. 07-34, Monday April 28, 20008, Hearing Room 220 South, 441 4th Street, NW, Washington, DC.

ZONING COMMISSION
District of Columbia
CASE NO.07-34
EXHIBIT NO.41

that it would prevent me from getting a Certificate of Occupancy.²

I would like to point out that Commissioner May expressed concern about the potential impact of rezoning at the meeting where Case No. 07-34 was first brought to the Zoning Commission:

The big question that came from me is, in the process of doing this sort of a down zoning, it's inevitable that there will be some properties that will be rendered non-conforming, particularly, when you go from R-5-A to R-4, because there are some restrictions that exist in R-4 that don't exist in R-5-A. And, I know, I saw there was a very detailed survey of the properties and the square footages and things like that, and the number and height of buildings and so on, and I'm very happy to see that level of information.

But, it is something of a concern, because of the potential impacts on the property owners, that all of a sudden they may now be, you know, non-conforming, and if they do want to do something with their property it complicates their lives.

So, not to say that I'm trying to leave the door open for them to, you know, go crazy on their properties, it's just that, you know, they have a certain expectation, do with it what they can currently do, regardless of what the Comp Plan says.

So, I don't know how easy it is to get a handle on that, but I would be, you know, looking at issues like lot occupancy, and to some extent even the number of stories, because sometimes people look at a building and say it's a three-story building, but it has an English basement, and an English basement actually counts as a story in certain circumstances. And so, I don't know if that happens a lot, but there were some pictures, some photos in there where I think that might be happening.

If you go into an R-4 there, that becomes a non-conforming use.³

Mr. Jesick (Office of Planning) replied, "Yes, if that's a concern of the Commission we can certainly have the applicant maybe put the other summary of the number of units that are rendered non conforming."⁴

Commissioner May responded, "Yes, and the reasons why, and so we can understand that and see

²Lines 16-22 from page 49 and lines 1-9 of page 50 of the transcript from Government of The District of Columbia, Zoning Commission, Public Hearing, Case No. 07-34, Monday April 28, 2008, Hearing Room 220 South, 441 4th Street, NW, Washington, DC.

³Lines 18-22 from page 31, line 1-22 from page 32, and lines 1-12 or page 33 of the transcript from Government of The District of Columbia, Zoning Commission, Regular Hearing, February 11, 2008, Hearing Room 220 South, 441 4th Street, NW, Washington, DC.

⁴Lines 13-17 from page 33 of the transcript from Government of The District of Columbia, Zoning Commission, Regular Hearing, February 11, 2008, Hearing Room 220 South, 441 4th Street, NW, Washington, DC.

what the potential impacts would be.”⁵

I was at the Monday, April 28, 2008 public hearing, and I don't recall the applicants providing any summary of the number of units that would be rendered nonconforming by the proposed rezoning.

One a final note, I let the Zoning Commission know that there was a typographical error in the legal description of my property in the Case No. 07-34 petition:

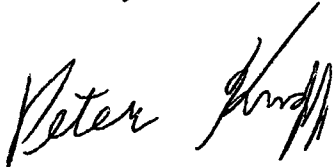
And just the last thing, which is just an administrative thing, when I took a look at the application, my property is not identified correctly. I live on Square -- or in Square 206, Lot 233, not Lot 0811. And I know this because five years ago when I added a third floor to my house, DCRA forced me to change the lot number for tax purposes. So I'm guessing that when this application was created it was using data that was older than five years.⁶

The typo still exists in the Z.C. Case No. 07-34 (Map and Text Amendments - 11 DCMR) (Rezoning Portions of Squares 176, 177, 177N, 178, 190, 190, 206, and 207) as published in the District of Columbia Register Vol. 55 - No. 20, May 16, 2008, page 005793. I would think that it would be in the best interests of the Zoning Commission to vote on petitions that accurately describe potentially affected real property.

I look forward to hearing the answers to Commissioner May's question on how rezoning an R-5-B zone to an R-4 zone impact properties that become non-conforming as a result of the rezoning at the Monday, July 14, 2008, 6:30pm, Zoning Commission public hearing.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Knapp". The signature is fluid and cursive, with the first name "Peter" written in a larger, more prominent script than the last name "Knapp".

Peter Knapp

cc. Commissioner Peter G. May (NPS)

⁵Lines 18-20 from page 33 of the transcript from Government of The District of Columbia, Zoning Commission, Regular Hearing, February 11, 20008, Hearing Room 220 South, 441 4th Street, NW, Washington, DC.

⁶Lines 9-20 of page 50 of the transcript from Government of The District of Columbia, Zoning Commission, Public Hearing, Case No. 07-34, Monday April 28, 20008, Hearing Room 220 South, 441 4th Street, NW, Washington, DC.